PART IV.

ANNOTATIONS OF THE RULES OF THE HOUSE.

Adjournment—Motion For.

§ 1117. Rule 13, Section 4, says that a motion to adjourn, except as hereinafter provided in Rule 14, Section 6, and a motion to fix the day to which the House shall adjourn, shall always be in order. Rule 14, Section 6, says that no motion to adjourn or recess shall be in order after the previous question shall be taken, unless the roll call shows the lack of a quorum. Yet the universal practice is that the motion to adjourn shall not be repeated until "business has been transacted" between the two motions unless all motions were made before a vote was taken. The calling of the roll, the reception of a message from the Senate or the address of a member of the House has been held to be the transaction of business. Business must intervene before a motion can be made after one adjournment has failed.

§ 1118. A motion to adjourn having been voted down, two other motions were immediately made.

Mr. O'Quinn raised a point of order on the motion to adjourn on the ground that no business had intervened since another motion to adjourn had been lost, and that, therefore, the motion of Mr. Brelsford to adjourn should not be entertained by the Chair.

Sustained. (29th, p. 724.)

§ 1119. Mr. Duncan raised a point of order on the motion of Mr. O'Bryan that no business had been transacted since a motion to adjourn had failed, which was sustained by the Chair. (30th, p. 320.)

§ 1120. Mr. Brown of Wharton moved that the House take a recess to 8 p. m. today.

Mr. Love of Williamson raised a point of order on the motion to take a recess, contending that it should not be put, on the ground that no business had been transacted since a similar motion had been rejected by the House.

Sustained. (30th, p. 1163.)

§ 1121. Held That Speaking Is "Business."—Mr. Jen-

kins resumed the floor, addressing the House on the amendments pending to House bill No. 20.

Pending the address of Mr. Jenkins, he yielding the floor,

Mr. Peeler moved that the House take a recess to 8 p. m. today, whereupon

Mr. Mears raised a point of order on the motion to take a recess, on the ground that it should not be entertained for the reason that no business had been transacted since a similar motion had been rejected by the House.

Overruled. (30th, p. 1163.)

(Note.—Many examples similar to these could be cited, but this proposition is too plain to need further precedents.—Editor.)

AMENDMENTS.

(See Substitutes.)

§ 1122. "No law shall be so amended in its passage through either house as to change its original purposes." (State Constitution.)

After a bill has been taken up and read, amendments thereto shall be in order, those recommended by the committee or its minority being first considered if called up. (Section 8, Rule 18.)

Bills may be amended on their third reading, but it requires a two-thirds vote to do so. (See Section 10, Rule 18.)

1. When a bill, resolution, motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute.

2. A motion to strike out and insert new matter in lieu of that to be stricken out shall be regarded as a substitute, and shall be indivisible.

3. Amendments to the caption of a bill or resolution shall not be in order until all other proposed amendments shall have been acted upon and the House be ready to vote upon the passing of the measure; and the same shall be decided without debate.

4. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment, or as a substitute for the motion or proposition under debate. (Rule 19.)

A motion to strike out the enacting clause takes precedence over a motion to amend and, if carried, "kills the bill." (Section 3, Rule 12.)

In the National House of Representatives the rule authorizes an amendment to a substitute, which is not permissible under the rules of the House. An amendment to an amendment may be pending and a substitute for the two may be offered, and there the matter ends.

For a further discussion of the question of amendments, see Jefferson's Manual, Section 458, this volume.

Congressional Precedents.

(See Hinds' Precedents, Volume 5, page 380.)

§ 1123. The admissibility of an amendment should be judged from the provisions of its text rather than from the purpose which circumstances may suggest.

§ 1124. When it is proposed to strike out certain words in a paragraph, it is not in order to amend by adding to them other words of the paragraph.

§ 1125. An amendment must be germane to the subject which it is proposed to amend.

§ 1126. The motions to postpone, refer, amend, for a recess, and to fix the day to which the House shall adjourn may be amended.

An amendment may not attach to the motion for the previous question or the motions to lay on the table and adjourn when used in the House.

§ 1127. A proposed amendment may not be accepted by the member in charge of the pending measure, but can be agreed to only by the House.

§ 1128. When it is proposed to perfect a paragraph, the motion to insert or strike out, if already pending, must remain in abeyance until the amendments to perfect have been moved and voted on.

§ 1129. It is not in order to offer more than one motion to amend at a time.

§ 1130. Under the later decisions, the principle has been established that an amendment should be germane to the particular paragraph or section to which it is offered.

§ 1131. An amendment inserting an additional section

should be germane to the portion of the bill where it is offered.

§ 1132. An amendment germane to a bill as a whole, but hardly germane to any section, may be offered at an appropriate place with notice of motions to strike out following sections which it would supersede.

§ 1133. Both an original proposition and a proposed amendment in the nature of a substitute may be perfected by amendments before the vote is taken on the substitute.

§ 1134. An amendment in the nature of a substitute may be proposed before amendments to the original text have been acted on, but may not be voted on until after such amendments have been disposed of.

§ 1135. When a bill is considered by sections or paragraphs, an amendment in the nature of a substitute is properly offered after the reading for amendment is concluded.

§ 1136. A motion to strike out certain words being disagreed to, it is in order to strike out a portion of those words.

§ 1137. To a motion to insert words in a bill a motion to strike out certain words of the bill may not be offered as a substitute.

§ 1138. In considering an amendment to a substitute, an amendment in the nature of a substitute for the pending amendment was not admitted, being in the third degree.

§ 1139. If a portion of a proposed amendment be out of order, the whole of it must be ruled out.

1140. A motion to strike out a paragraph pending, and the paragraph then being perfected by an amendment in the nature of a substitute, the motion to strike out necessarily falls.

§ 1141. When it is proposed to amend by inserting a paragraph, it should be perfected by amendment before the question is put on inserting.

§ 1142. When it is proposed to strike out a paragraph, it should be perfected by amendment before the question is put on striking out, although if the motion to strike out fails amendments may still be offered.

§ 1143. A negative vote on a motion to strike out and insert does not prevent the offering of another similar motion or a simple motion to strike out.

§ 1144. Words inserted by amendment may not afterwards be changed, except that a portion of the original paragraph, including the words so inserted, may be stricken out if, in effect, it presents a new proposition, and a new coherence may also be inserted in place of that stricken out.

§ 1145. It is in order to insert by way of amendment a paragraph similar (if not actually identical) to one already stricken out by amendment.

§ 1146. After a vote to insert a new section in a bill it is too late to perfect the section by amendment.

§ 1147. It is not in order to amend an amendment that has been agreed to; but the amendment, with other words of the original paragraph, may be stricken out in order to insert a new text of a different meaning.

§ 1148. While it is not in order to strike out a portion of an amendment once agreed to, yet words may be added to the amendment.

§ 1149. The motion to strike out and insert may not be divided for the vote.

Legislative Precedents.

§ 1150. *An amendment may be similar to one lost, yet so different that it is in order.*

Mr. Morrow offered the following amendment:

"Amend by inserting in line 23, on page 1, after the word 'drawback,' the following words: "free pass.'"

Mr. Kennedy raised the point of order that the amendment was not in order, for the reason that an amendment similar in purpose had been tabled.

Overruled. (26th, p. 1190.)

§ 1151. Mr. McFall had offered a resolution to investigate the dissolution and reincorporation of the Waters-Pierce Oil Company and its readmission to do business in Texas and to fully investigate the connection of certain State officials and Congressman J. W. Bailey therewith, Mr. Hawkins offered the following amendment:

'Amend by adding to resolution: 'Resolved further, that

nothing in this resolution is intended to charge that a fraud has been in fact committed by either Hon. J. W. Bailey or any of our State officers, but our purpose is rather to investigate and see if any fraud was in fact committed, and if so, by whom.'"

Mr. Seabury offered the following amendment:

"Amend by striking out of the preamble the following clause: 'Whereas, by said act of dissolution and reincorporation there was perpetrated upon the State of Texas a fraud which has brought her laws and her courts into disrepute, both at home and abroad, and shame and humiliation upon her people.' And also strike out the following words: 'and perpetrating of said fraud.'"

Mr. McFall raised the point of order that the amendment was out of order for the reason that it is substantially the same as an amendment that had just been tabled.

Overruled. (27th, p. 49.)

§ 1152. *Is an amendment covering the same matter embodied in an amendment previously tabled in order?*

The House was considering Senate bill No. 11.

Mr. Hogsett offered an amendment to strike out Section 5.

This was tabled.

Later on Mr. Hogsett offered the following amendment:

"Amend Senate bill No. 11 by striking out, in line 12, page 3, the words 'or purchase,' and the words 'or sell and convey' in line 18, and the words 'to own and' in line 21 of said page 3, and the words 'or purchased' in line 22 of said page 3 of said act."

Mr. Lane raised the point of order that the amendment by Mr. Hogsett was not in order for the reason that the same had been embodied in an amendment that was tabled.

Overruled. (27th, p. 220.)

Deficiency Appropriation Bill pending, Mr. Bean offered an amendment striking out all of page 10 to line 12, and further from line 12 to line 21, which was tabled.

Mr. Morrow then offered an amendment striking out lines 9, 10 and 11, page 10.

Mr. Schluter raised the point of order that the amendment was out of order, for the reason that a similar amendment had been offered and tabled.

Overruled. (27th, p. 786.)

§ 1153. *Held that the author of a bill could accept amendments without vote of the House.*

House bill No. 107, by Mr. Griggs, pending, Mr. Satterwhite offered an amendment, which was accepted by Mr. Griggs, the author of the bill.

Mr. Bridgers raised the point of order that the bill, having been referred to a committee and the committee having reported the bill to the House, the bill became the property of the House, and it could not be amended except by a vote of the House.

Overruled. (27th, p. 581.)

§ 1154. Pending Senate bill relating to public printing and amending the law with reference to printing the legislative bills.

Mr. O'Quinn offered the following amendment to the bill:

"Amend by adding after the word 'require,' page 5, line 10, the following: 'Provided, the provisions of this act shall in no wise affect any existing contract between the State and any contractor for public printing.'"

Mr. Napier offered the following amendment to the bill (which is the amendment recommended by the committee):

"Amend the bill by changing the figure '2' after the word 'Sec.' in line 11, page 5, to '3.' and insert Section 2 between lines 10 and 11, page 5, said section to read as follows:

"'Sec. 2. That the State shall not be chargeable under the present contract with any excess pages in any bill by reason of the changed method of printing provided for by this act.'"

Mr. O'Quinn raised a point of order on consideration of the amendment by Mr. Napier, stating that it was not in order until the amendment by himself should be disposed of.

The Speaker held that the amendment by Mr. Napier was in order, and that under the rules it should take precedence of other amendments not recommended by the committee to which the bill was referred.

(28th, p. 212.)

Mr. Hodges raised a point of order on consideration of an amendment by Mr. Connally, stating that it sought to strike out matter that had already been inserted in the bill by amendments.

The Speaker overruled the point of order, stating that though in theory the point of order may be correct, he would leave it for the House to pass an. (28th, p. 804.)

Mr. Calvin offered a substitute for a pending resolution. (See p. 5-26, called session.)

The amendment provided (1) that not exceeding five clerks, one of whom shall be the Speaker's private secretary, and (2) six pages, one of whom shall be the Speaker's page.

Mr. Cobbs raised a point of order on consideration of the pending substitute, stating that it is the same in substance as the original resolution by Mr. Calvin, which had already been substituted, and therefore should not be entertained.

Overruled. (28th, called, p. 17.)

§ 1155. *Can an amendment be considered when it covers matter previously passed upon?*

The House was considering House bill No. 3 in reference to the retirement of certain State bonds. It had voted down an amendment striking out the words, "Shall become due and payable forty years from their date, but the State shall reserve an option of redeeming them at any time after five years from their date," and proposing to insert in lieu thereof the following: "Shall become due and payable twenty years from their date."

Mr. Seabury offered the following amendment to the bill: "Amend by striking out the words 'forty years' and inserting the words 'twenty years" wherever they occur in the bill."

Mr. Boyd raised a point of order on consideration of the amendment, stating that it covers a matter already passed upon in a preceding amendment, and should therefore not be entertained.

Overruled. (28th, called, p. 30.)

§ 1156. *Can existing law be changed in an appropriation bill?*

Mr. Bryant offered an amendment striking out certain portions of the appropriation bill, which provided for the support and maintenance and running of the penitentiary system each year, providing that all proceeds and revenues of said system be carried into the Treasury, of the sum of $400,000 for each year.

Mr. Weinert proposed to strike out $400,000 and insert $700,000.

Mr. Pickett raised a point of order on consideration of the pending amendments, stating that the effect, if adopted, would be to change existing law, which could not be done in an appropriation bill.

The point of order was overruled by the Speaker, who stated that, though there might be merit in the point raised, he preferred leaving it to the House to pass upon. (28th, called, p. 144.)

(Note.—The Speaker evaded the question, shifting it to the House.—Editor.)

§ 1157. *An amendment lost on a second reading of a bill is in order on a third reading.*

An amendment which had been voted down on the second reading of a bill was offered while the bill was on the third reading.

Mr. O'Quinn raised a point of order on consideration of the amendment, stating that it should not be entertained, for the reason that the same proposition had been submitted, voted on and lost on the second reading of the bill.

The Chair overruled the point of order, stating that as this is a different stage in the progress of the bill, the amendment was in order. (28th, p. 151.)

§ 1158. *Because the House has adopted an amendment is no reason why it should not consider another one embodying the same matter.*

Mr. Love of Williamson offered the following amendment to the bill:

"Amend line 4, page 2, after the word 'equal,' the following: 'Every citizen or taxpayer in the county in which the contract is let, with all things equal, price, quality, work, etc., shall have preference in letting of the contract.'"

Mr. Hamilton raised a point of order on consideration of the amendment on the ground that another amendment embracing the same had been adopted.

Overruled. (30th, p. 301.)

§ 1159. Mr. Hamilton offered the following substitute for an amendment:

"Amend by inserting at the end of the bill the following: 'And provided, that if the conditions of the person or persons adopting such child shall change after such adoption so that the interests of such child demand that a change be made in its custody, or if in the opinion of the court or jury trying the same the person or persons so adopting are not proper persons, the court shall have the right to award such child to some suitable person, persons or society as the interests of the child may demand.'"

Mr. Duncan raised the point of order on consideration of the substitute on the ground that it is not germane and for the further reason that an amendment containing the same

substance had been adopted. (The record does not sustain Mr. Duncan's point of order.—Editor.)

Overruled. (30th, p. 303.)

§ 1160. *An amendment is not in order if one of the same subject matter has just been tabled.*

Mr. Duncan raised a point of order on consideration of an amendment on the ground that an amendment covering the same subject matter had just been tabled.

Sustained. (30th, p. 457.)

§ 1161. Pending an amendment striking out line 40, page 85, of appropriation bill, providing for scholarships.

Mr. Mears raised a point of order on consideration of the amendment on the ground that a similar amendment to another department had been rejected by the House.

Overruled. (30th, p. 1341.)

§ 1162. To Senate bill No. 24, to compel telephone and telegraph companies to assure connection or transfer of message with companies doing a like business, Mr. Ray had offered an amendment which was in fact a new bill. It was rejected.

Mr. Dean then offered the following:

"Sec. 2. All companies, individuals, firms or corporations doing a telephone business in this State shall be compelled to make physical connections between their toll line at common points for the transmission of messages or conversations from one line to another. Such connection to be made through the switchboard of such individuals, companies, firms or corporations, if any is maintained at such points, so that persons so desiring may converse from points on one of such lines to points on another."

Mr. Onion raised a point of order on consideration of the amendment on the ground that the subject matter of the amendment is contained in the amendment by Mr. Ray, which the House has just rejected, and that, therefore, the amendment should not be entertained.

Overruled. (30th, called, p. 328.)

§ 1163. Senate bill No. 24. To require telephone and telegraph companies to arrange for connections or transfer message with other telephone or telegraph lines doing a like business pending, Mr. Ray offered the following amendment:

"Sec. 1. All telephone companies or persons, firms, corporations or associations of persons which are now or which

shall hereafter be engaged in the business of accepting and transmitting long-distance messages or conversations to and from different points in this State where the use of a telephone instrument or instruments is necessary in the conduct of such business, shall, if there be any other person, firm, corporation or association engaged in the telephone business at the same point or in same city, town or village, provide means whereby all messages or communications conveyed to such point over the lines of any such company may be transferred to the lines of either or all other such companies engaged in such business at such common point and transmitted to their final destination without the intervention of a personal repetition of such message by an operator or employe either orally, in writing or in any other manner, and such physical and mechanical facilities shall be provided as will guarantee the transfer of such messages in compliance with the provisions of this act; provided, that in no case shall any message, conversation or other communication be transferred from one line to another against the will of the company first handling same when it is possible for such company to deliver said message direct to the party for whom it is intended via the line or lines operated and owned by said company."

Mr. Onion raised a point of order on consideration of the amendment on the grounds that it contains matter embraced in the amendment by Mr. Ray already rejected by the House, and that therefore it should not be entertained.

The Chair held the point of order not well taken. (30th, called, p. 240.)

§ 1164. Mr. Cox raised a point of order on consideration of an amendment on the ground that the bill had not been read second time.

Overruled. (31st, p. 440.)

(Note.—This point of order was overruled because the Journal showed that the bill had been read the second time.—Editor.)

Mr. Cox raised a point of order on consideration of the amendments on the ground that the bill had not been read second time.

Overruled. (31st, p. 443.)

(Note.—The same reason assigned page 440 applies here.—Editor.)

Mr. Cox raised a point of order, stating that the amend-

ments to the bill were not properly adopted, for the reason that the bill had not been read second time.

Overruled. (31st, p. 446.)

(Note.—Same as p. 440.—Editor.)

§ 1165. *Because an amendment was ruled out of order at a certain stage of the proceedings is no reason why it might not be in order at another time.*

Mr. Jennings' substitute was not germane to Mr. Ray's amendment to the bank bill, but was germane to the original bill.

Mr. Ray raised a point of order on consideration of the amendment on the ground that the amendment is not in order, for the reason that the subject matter thereof had already been before the House one time in the form of an amendment and killed by the ruling of the Chair.

Overruled. (31st, p. 555.)

§ 1166. *Though an amendment should be voted down, it would be in order on a subsequent reading of the bill.*

Mr. Fuller raised a point of order on consideration of an amendment on the ground that the House had already rejected the subject matter of the amendment.

Overruled. (31st, p. 834.)

(Note.—This amendment had been offered at a former reading of the bill.—Editor.)

A bill being considered after having been vetoed by the Governor cannot be amended. (32nd, p. 732.)

§ 1167. It is not in order to amend a bill repealing a statute so as to re-enact the identical statute. (32nd, p. 736.)

§ 1168. The purposes of an amendment cannot be changed by an amendment. (32nd, p. 967.)

§ 1169. A general bill cannot be changed into a local bill by an amendment. (32nd, p. 1325.)

AMENDMENTS— GERMANE.

§ 1170. The fact that the rules of the House provide that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment, and that the Constitution declares that no bill shall be so amended in its passage through either house as to change its original purpose narrows the scope of germaneness to such an extent

that often many amendments which relate to the general subject of the original proposition, but which so changes the original purpose of the bill or proposition by the elimination of essential parts thereof or by adding new matter on the same subject or by alterations in essential points are excluded. This necessarily limits and restricts amendments that are germane to any subject. The fact that there is no protection in the courts against the violation of the constitutional provision prohibiting the changing the purposes of bills makes it imperative that a presiding officer, as well as legislators, strictly construe the rule, and must use due precaution in the consideration of the germaneness of an amendment.

Congressional Precedents.

§ 1171. Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest. (V. 5, 6603.)

§ 1172. The rule that amendments shall be germane applies to amendments reported by committees. (V. 5, 5806.)

§ 1173. An amendment striking out words in a bill is germane. (V. 5, 5805.)

§ 1174. To a bill admitting several territories into the Union an amendment adding another territory is germane. (V. 5, 5838.)

§ 1175. To a resolution embodying two distinct phases of international relationship an amendment embodying a third was held to be germane. (V. 5, 5839.)

§ 1176. To a bill providing for the construction of a building in each of two cities an amendment providing for similar buildings in several other cities held to be germane. (V. 5, 5840.)

§ 1177. To a bill relating to the salaries and expenses of judges an amendment forbidding them to receive passes, franks, etc., was held to be germane. (V. 5, 5912.)

§ 1178. To a bill relating to Federal elections and functions of the Federal courts therein, an amendment establishing a system of jury commissioners in such courts was held to be germane. (V. 5, 5922.)

§ 1179. To a bill providing for the reorganization of the army, a new section prescribing a system of competition in marksmanship among the soldiers was held to be germane as an amendment. (V. 5, 5910.)

§ 1180. To a bill relating to the salaries of the Federal judges and those of the District of Columbia, an amendment relating to the salaries of the Porto Rican judges was held to be germane. (V. 5, 1913.)

§ 1181. To a bill relating to the control of several distinct public places in Washington, an amendment providing for the removal of the fence around the botanical garden, in the same city, was held germane. (V. 5, 5914.)

§ 1182. To a proposition to create a board of inquiry, an amendment specifying when the board should report was held to be germane. (V. 5, 5915.)

§ 1183. To a bill providing generally for a union station in the District of Columbia an amendment levying a special tax in the District to defray the cost of the station was held to be germane. (V. 5, 5916.)

§ 1184. To a bill establishing a new department, creating offices and fixing salaries, an amendment for changing the salary of an officer of the department was held to be germane. (V. 5, 5917.)

§ 1185. To a proposition to recoin full legal-tender silver dollars into subsidiary coin, an amendment making the latter full legal tender was held to be germane. (V. 5, 5918.)

§ 1186. An amendment on the subject of renovated butter was held to be germane to a bill relating to "oleomargarine and other imitation dairy products." (V. 5, 5919.)

§ 1187. To a resolution rescinding an order for final adjournment, an amendment assigning a new date was held to be germane. (V. 5, 5920.)

§ 1188. To a bill referring generally to the affairs of a gas company, an amendment introducing the subject of the price of gas was held to be germane. (V. 5, 5921.)

Legislative Precedents.

§ 1189. The House was considering a bill to prohibit the playing of cards at any houses retailing spirituous liquors, store house, tavern, inn, or other public house, or in any street, highway, or other public place, or in any outhouse where people resort.

Mr. Stollenwerck offered to amend by adding, "or at any place except a private residence."

Mr. Moore offered this substitute:

"Add to Article 379: 'Provided, this article shall not be construed to prohibit games played for pleasure by the family and invited guests.'"

Mr. Grisham raised the point of order that the substitute was not germane and therefore out of order, which was overruled by the Speaker. (27th, p. 100.)

(Note.—Mr. Stollenwerck sought by implication to exempt houses occupied by a family while the Moore substitute expressly did so. It left nothing to implication.—Editor.)

§ 1190. This resolution was pending: "Resolved, that Governor J. S. Hogg be invited to use Representative Hall for the delivery of such (an) address on next Tuesday night, or on any earlier night that he shall indicate."

By Mr. Garner: "Amend by striking out 'use Representative Hall' and insert 'address the joint committees of the House and Senate on Constitutional Amendments.'"

The resolution inviting Governor Hogg to speak, with amendments, still pending.

Mr. McFall raised a point of order on the Garner amendment that it was not germane to the original resolution, and should not be considered in connection with it.

The Chair did not sustain the point of order, a motion to table pending. (27th, p. 302.)

Mr. McFall raised the point of order on the Garner amendment that it was not germane to the resolution and should not be considered, since the object sought in the resolution was to tender the use of this hall to Hon. James S. Hogg for the delivery of his address next Tuesday night, which has been advertised to be delivered in the opera house; and, further, that the House had no jurisdiction in the matter of inviting any one to address a committee.

Overruled. The Speaker said:

"The rules of the House have no provision whereby the order of procedure before a committee can be dictated by the

House. The committee, therefore, is a 'law unto itself,' and has the sole right of regulating its procedure.

"However, the Chair having been officially informed that the House committee has itself extended the invitation contemplated by the Garner amendment, the Chair holds that the said amendment is merely seeking ratification on the part of the House of the action of the committee, and therefore permissible.

"The original resolution merely provided for a change of place from the opera house to this Hall for the delivery of the speech. The Garner resolution changes the place from this Hall to the committee room, and in itself is germane. Even though germane, the Garner resolution would be ruled out as overriding the rights of the committee, if the committee had not already extended the invitation, but having extended the invitation, the House may ratify the acts of the committee." (27th, p. 303.)

§ 1191. House bill No. 262, amending statute governing the formation of private corporations so as to authorize the organization of fruit and vegetable companies.

Mr. Bridgers offered the following amendment:

"For the organization of exchanges with authority to deal in the stock of mining companies, oil companies and cattle companies, and with power to provide and maintain suitable rooms for the conduct of their business, and to establish and maintain uniformity in commercial usages of cities and towns; to acquire, preserve and disseminate valuable business information, and to adopt rules, regulations and standards of classifications which shall govern all transactions of trade in such stocks and business, and with other commodities where standards and classifications are required, and generally to promote the interest of trade in mines, minerals and cattle, and to promote and facilitate commercial transactions in such business."

Mr. Terrell of Cherokee raised the point of order that the amendment was not germane to the bill.

Overruled. (27th, p. 784.)

§ 1192. An election bill had been amended so that it fully covered the printing of the official ballots and providing "that said commissioners court shall cause to be placed in the hands of the presiding officers of elections of each voting precinct within the county two days prior to the date of election at

which they are to be used, such number of ballots as may be required by the voters of said precinct."

Mr. Beaty offered the following amendment:

"Amend the bill as amended by adding to end of line 17, page 2, Section 1: 'That tickets so printed shall be placed in an envelope and sealed up and delivered by the printer to the sheriff, taking his receipt for same. The sheriff shall deliver the tickets to the presiding officer of the election, who shall not open the envelope until the election board is organized; then, in the presence of the board, open the envelope and spread the tickets out and not allow any voter to have more than one ticket and to get that ticket at the voting place; provided, that if a ticket is spoiled the voter can return it and get another one. There shall be a place on the envelope for sheriff's return, which he shall fill out as in all other processes, and the services herein provided for shall be required of the sheriffs in this State as a part of their ex-officio services.'"

Mr. Thurmond raised the point of order that the Beaty amendment was not germane to the amended bill.

Overruled. (27th, p. 807.)

§ 1193. An amendment changing a bill prohibiting the manufacture or sale of adulterated cigarettes so that it would prohibit the sale of any manufactured cigarettes, whether adulterated or not, was held to be germane. (27th, p. 1216.)

§ 1194. Mr. Napier offered a resolution requesting the heads of all State departments and all State institutions to furnish to the House, under oath, a statement showing the number of employes of said department or institution who were related to the chief or head of said department or institution, amount of salary received by such clerks, and also similar information as to employes who were related in the same manner to the heads of other departments or State institutions.

An amendment was offered so as to include members of the Legislature. It was held that this amendment was germane and in order. (28th, p. 550.)

§ 1195. The House was considering a bill to prohibit the granting of free passes by railroads.

Mr. Shannon offered the following amendment:

"Provided further, that after the passage of this act it shall be unlawful for any railway company in Texas to give any pass or free transportation of any kind or nature to any

person whomsoever, except bona fide employes of said railways or for the accomplishment of any strictly charitable purpose, and any violation of the provisions of this act shall annul the charters under which said railway companies do business in this State; and the railway companies doing business in this State shall report annually to the Railroad Commission, under oath, the free transportation issued and to whom issued during the preceding year. Any failure of any railway company doing business in Texas to make such report shall be grounds for forfeiture of the charters of such railway companies on suit brought by the Attorney General or any district attorney or county attorney in this State."

Mr. Witcher offered the following amendment to the amendment:

"Amend the amendment by adding: 'Provided, that it shall not prohibit any farmer shipping produce or any stockman shipping stock over any roads from having free transportation.'"

Mr. Shannon raised a point of order on consideration of the amendment, stating that it is not germane to the amendment.

Overruled. (28th, p. 785.)

§ 1196. Mr. Terrell offered a resolution providing that on roll call and convening of each session the Clerk be directed to call the roll of all employes and that no employe should be allowed pay when absent, unless excused by the Speaker.

Mr. Bridgers offered the following substitute:

"Resolved, That the committee clerks and pages shall hereafter perform such services as may be required of them by the Speaker or the Chief Clerk, and it shall be the duty of the Chief Clerk to assign to the several clerks such duties as will equally, or as near as may be, divide the work of the House; and it shall be the duty of the Chief Clerk to have all clerks and pages present in the House each day from 8:30 a. m. to 12 m. and from 1:30 p. m. to 5 p. m. and at such other times as the House may be in session, or as the Chief Clerk or the Speaker may deem proper.

'Resolved further, That no committee clerk or page shall be absent from the House during any day unless duly excused by the Speaker or Chief Clerk, such excuse to be noted in the record."

Mr. Terrell of McLennan raised a point of order on consideration of the substitute, stating that it is not germane for

the reason that the resolution provides for a roll call of employes, and that the substitute makes no mention of a roll call.

Overruled. (28th, called, p. 20.)

§ 1197. To a bill regulating the control of dependent and neglected children, an amendment, the effect of which was to keep such children from within 200 feet of a horse race, was held germane. (29th, p. 255.)

§ 1198. To a bill authorizing city councils to regulate the charges of water, light and gas companies, an amendment amplifying the report required of such companies, was held germane, it being necessary for the council to have the fullest information to determine the proper rate. (29th, p. 278.)

§ 1199. The T. & N. O. consolidation bill pending, Mr. Mays offered an amendment requiring the T. & N. O. R. R. Co. to cancel its stocks, bonds and other liabilities before the bill could take effect.

Mr. Brown of Kaufman raised a point of order on consideration of the amendment on the ground that it is not germane.

Overruled. (29th, p. 724.)

§ 1200. While considering the Terrell election bill, Mr. Murray of Wilson moved to strike out that portion which prohibited the payment of poll taxes by any one actively espousing the cause of any candidate for office. Mr. Winter offered this substitute for the amendment: "No person shall pay the poll tax of any other person, nor act as the agent for any person in paying any poll tax."

Mr. Brelsford raised a point of order on consideration of the substitute on the ground that it is not germane to the amendment.

Overruled. (29th, p. 743.)

§ 1201. To an act to provide for the creation of a Forestry Commission and to make an appropriation for carrying out the purposes of the act.

Mr. Murray offered an amendment making an appropriation of two thousand dollars for the fiscal year 1906-07.

Mr. Hamilton raised a point of order on consideration of the substitute on the ground that it is not germane.

Overruled. (29th, p. 802.)

§ 1202. To a bill making an appropriation for the deficiency in the appropriations heretofore made for the support

of the government for the fiscal years 1904-05, and to make additional appropriations for the support of the State government for the year ending August 31, 1905, Mr. Bryan offered to amend the bill by adding thereto the following:

'For the purchase of machinery for the equipment of the laundry at the Epileptic Colony, $2972."

Mr. Dean raised a point of order on consideration of the amendment on the ground that it seeks to make an appropriation and that the bill under consideration merely seeks to provide for deficiencies.

Overruled. (29th, called, p. 89.)

(Note.—It will be seen that the bill made additional appropriations for 1905.—Editor.)

§ 1203. Mr. Love of Williamson moved to amend the Bryan amendment by providing that Senator Bailey be permitted to examine the original papers and documents in the possession of the Attorney General.

Mr. Duncan raised a point of order on consideration of the amendment by Mr. Love of Williamson, and stated that the House could not go beyond securing information for itself, and that the amendment is not germane.

Overruled. (30th, p. 133.)

§ 1204. Mr. Cobbs offered a resolution inviting Senator Bailey to appear before the House and be given an opportunity to make any statement he might desire to with reference to the vouchers and documents and that the Attorney General be requested to have the originals at the bar of the House that Senator Bailey might inspect them while making said statements.

Mr. Duncan offered this amendment:

"Provided, Senator Bailey will, in connection with such explanation, ask this House to make a fair, thorough and unlimited investigation by its committee of all the facts connected with his conduct while Representative and Senator."

Mr. Cobbs raised a point of order on consideration of the Duncan amendment on the ground that it is not germane to the resolution.

The Chair held the point of order not well taken. (30th, p. 137.)

§ 1205. To amend the so-called Terrell election law, relating to general, special and primary elections and political conventions, and also to amend Section 120 of said act, as amended by the Second Called Session of the Twenty-ninth

Legislature, Mr. Canales offered an amendment. This amendment added Section 4 to the bill, amending Section 116 of the General Laws of the State, which the bill sought to amend. The addition to Section 116 provided that no platform demand requiring the Legislature to pass any law on any subject should be incorporated in the platform of any political party, unless the same was submitted to the people by said party on primary election day and had received a majority of the votes cast on said day by said party, and provided the manner of its submission.

Mr. Dean raised a point of order on the consideration of the amendment, on the ground that it is not germane to the purpose of the bill.

Overruled. (30th, p. 1221.)

§ 1206. By an amendment to the appropriation bill, it was sought to make an appropriation for two experimental stations not then established.

Mr. O'Neal raised a point of order on consideration of the amendment, stating that it is not germane for the reason that it seeks to make an appropriation for an institution not in existence, and that said institution must be created by a separate statute.

Overruled. (30th, p. 1344.)

§ 1207. Mr. Robertson of Travis offered an amendment to a bill, laying a gross receipt tax upon certain corporations, among them were insurance companies. This amendment is fully explained in the point of order which follows.

Mr. Kennedy raised a point of order on further consideration of the third division of the amendment by Mr. Robertson of Travis and said:

"Mr. Speaker: In the third amendment offered by the gentleman from Travis appears this language:

"'And such life insurance company shall constitute and appoint the said Commissioner of Insurance of this State its duly authorized agent and attorney in fact for the purpose of accepting service for it or being served with citation in any suit brought against it in any court or this State in like manner as is provided by law for companies engaged in doing every character of insurance business in this State.'

"I make the point of order that this is not germane to the bill, in that this bill is for taxation purposes only, and this provision of his amendment, while ostensibly it is for the purpose of enabling the State to collect the taxes, it is in fact

for the purpose of giving any citizen in this State the right to bring suit in any court of this State against insurance companies and arbitrarily designating the Commissioner of Insurance the authorized agent of any company, for the purpose of being served with citation in any such suit. This clearly attempts to add to the bill more than one subject. It is in effect an attempt to attach on a taxation measure a measure designating the manner in which suits may be brought, and if left in this bill will violate that part of the Constitution that declares that only appropriation bills may have more than one subject.

"If this provision only applied to suits brought by the State in an effort to collect the taxes that might become due under this amendment, there could be, in my opinion, no objection."

Overruled. (30th, called, p. 96.)

§ 1208. *Amendments to correct the verbiage or to perfect the bill are germane and should be considered.*

An amendment to correct the verbiage of a bill was pending.

Mr. McConnell raised a point of order on consideration of the substitute on the ground that it does not change the bill, but simply changes the verbiage in some respects.

Overruled. (30th, called, p. 177.)

§ 1209. To bill creating Falfurrias county, an amendment was offered which materially changed the boundaries.

Mr. Fuller raised a point of order on consideration of the substitute on the ground that it is not germane to the purpose of the bill.

Overruled. (31st, p. 492.)

§ 1210. Bill making it discretionary with the judges of district and county courts to dispense with or employ county auditors pending. Mr. Davis offered this amendment:

"The commissioners court of any county shall, upon petition of 25 per cent of the qualified voters of said county, order an election to determine whether or not there shall be appointed a county auditor for said county, or whether the office of county auditor shall be abolished."

Mr. German raised a point of order that laws in this State can only be made by the Legislature, and it has no power to delegate to any board or other department of the government the power to annul laws enacted by it.

Overruled. (31st, p. 505.)

§ 1211. To a bill compelling insurance companies to invest a certain part of their reserve fund in the State, Mr. Wortham offered an amendment regulating the payment of gross receipt taxes by such companies.

Mr. Robertson of Travis raised a point of order on the ground that the amendment is not germane to the bill for the reason that the original bill requires the investment of 75 per cent of the Texas reserve in Texas securities, while the amendment has for its purpose to leave it optional with life insurance companies to either make the investment or pay a larger gross receipt tax; therefore it is not germane to the original bill.

The Chair held the point of order not well taken, stating that the amendment as proposed by the gentleman from Tarrant (Mr. Wortham) does not change the purpose of the bill, towit, compelling insurance companies to invest in the State. (31st, p. 588.)

§ 1212. Insurance bill pending:

Mr. Vaughan raised a point of order on the amendment offered by the gentleman from Tarrant (Mr. Wortham) on the ground that one section of the original bill provided that life insurance companies shall invest at least 75 per cent of their Texas reserve in Texas securities, and the other section provides for a tax. This amendment seeks to amend that section of it with reference to the tax which makes it optional with the companies in reference to the 75 per cent tax.

The Chair held the point of order not well taken for the reason that the amendment proposed by the gentleman from Tarrant (Mr. Wortham) does not change the purposes of the bill, towit, compelling life insurance companies to invest in this State. (31st, p. 589.)

§ 1213. *Held that an amendment to a text-book bill requiring the books, under conditions, be printed in Texas, germane.*

The House had under consideration an act providing for the selection of text-books for the public schools of Texas, and this amendment was offered, towit: "All of said books to be printed and bound in Texas, where, in the judgment of the board, it will not result in competition." The amendment was held germane. (32nd, 1st called, p. 264.)

§ 1214. *An amendment adding certain other persons to the bill exempting the number of persons and classes from the operation of the anti-pass law held germane.*

The House was considering a substitute to House bill No. 228 relating to the uses of free passes and the giving of the same by transportation companies. It exempted from the operation of the anti-pass law quite a number of persons, among them certain officers of the State and Federal governments, sisters of charity, and certain members of religious societies, inmates of the Confederate Home, and managers of the Young Men's Christian Associations.

Mr. Hunter offered an amendment exempting from the operations of the law all farmers, their wives and children, all laboring men and their families, merchants and their salesmen, certain ex-judges; and Mr. Lane made the point of order that it was not germane to the purposes of the bill.

Overruled. (33rd, p. 810.)

§ 1215. *An amendment prescribing qualifications of delegates to a charter convention is germane to an amendment providing for such convention.*

The House was considering the "home rule" bill, with a committee amendment pending relating to the election and membership of a charter convention, and Mr. Lewelling offered the following amendment:

"If the people of any municipality or the authorities thereof shall call a convention for the purpose of altering or amending their charter, or framing a new charter, no one shall be eligible to membership in such convention who is an officer, stockholder or employe of any public service corporation, or any corporation having any contract with the city of any kind or character, and no person shall be eligible to membership in such convention who has any contract with the city or who is financially interested in any such contract, either directly or indirectly, or who may be a member of any firm which has such contract or is interested therein."

Mr. Lane made the point of order that the amendment was not germane to the purposes of the original amendment.

Overruled. (33rd, p. 864.)

§ 1216. *Held that an amendment authorizing the Attorney General to charge a fee for opinions given to private persons was germane to an amendment relating to appropriations to support the Attorney General's Department.*

The House was considering the section of the general appropriation bill relating to the Attorney General's Department. An amendment pending, "lumping" the appropriation for the Attorney General's Department and also containing

the suggestion as to how the "lump" sum should be expended, an amendment was offered authorizing the Attorney General to colect from persons other than certain officers $10 for each opinion rendered by his department, which should be deposited with the State Treasurer. Mr. Martin raised the point of order on the ground that it was not germane to the purpose of the amendment.

(Overruled. 32nd, 1st called, p. 198.)

AMENDMENTS—NOT GERMANE.

Congressional Precedents.

§ 1217. An amendment which would have changed a resolution of inquiry to one of instruction was held to be not germane. (V. 5, 5804.)

§ 1218. To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held to be not germane. (V. 5, 5806.)

§ 1219. It is not in order to amend a pending privileged proposition by adding a matter not privileged and not germane to the original proposition. (V. 5, 5809.)

§ 1220. To a bill relating to corporations carrying passengers for hire over the streets of Washington an amendment regulating the size of tires of all vehicles passing over the streets was held not to be germane. (V. 5, 5906.)

§ 1221. To a provision requiring two street railway companies to issue free transfers each over the other's lines, an amendment requiring the two companies to issue universal transfers over all intersecting lines was held not to be germane. (V. 5, 5907.)

§ 1222. To a bill requiring street railway corporations to make annual reports, amendments relating to transfers and accommodations for passengers were held not to be germane. (V. 5, 5908.)

§ 1223. To a bill relating to the coinage of silver in the Treasury and its use in redemption of notes issued against it, amendments authorizing the issue of bonds and also authorizing the giving of notes for deposits of silver were held not to be germane. (V. 5, 5886.)

§ 1224. To a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the government was held not to be germane. (V. 5, 5887.)

§ 1225. To a bill relating to the resignation and salary of a district judge, an amendment providing for the division of that judge's district into two districts was offered and held not to be germane. (V. 5, 5888.)

§ 1226. To a bill providing for the holding of courts in certain existing judicial districts, an amendment providing for the creation of a new district was held not germane. (V. 5, 5889.)

§ 1227. To a proposition to investigate the conduct of members in relation to a department of the government, an amendment proposing an investigation of the department itself was held not to be germane. V. 5, 5890.)

§ 1228. To a paragraph prohibiting the sale of firearms or intoxicating liquors to the natives of Alaska, an amendment providing a system for licensing the sale of liquor in that territory was held not to be germane. (V. 5, 5894.)

§ 1229. To a proposition to investigate the cost of armor plate, an amendment fixing the terms of purchase thereof was held not to be germane. (V. 5, 5895.)

§ 1230. To a bill for the relief of one individual, an amendment providing a similar relief for another individual is not germane. (V. 5, 5826.)

§ 1231. To a provision for an additional judge in one territory an amendment providing for an additional judge in another territory was held not to be germane. (V. 5, 5830.)

§ 1232. To a bill providing for extermination of the cotton boll weevil, an amendment including the gipsy moth was held not to be germane. (V. 5, 5832.)

§ 1233. To a paragraph appropriating for a clerk to one committee, an amendment providing for a clerk to another committee was held not to be germane. (V. 5, 5833.)

§ 1234. A resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject. (V. 5, 5834.)

§ 1235. To a bill relating to commerce between the States, an amendment relating to commerce within the several States was offered and held not to be germane. (V. 5, 5841.)

§ 1236. To a bill relating to corporations engaged in interstate commerce, an amendment relating to all corporations was held not to be germane. (V. 5, 5842.)

§ 1237. To a bill for the benefit of a single individual or corporation, an amendment embodying general provisions applicable to the class represented by the individual is not germane. (V. 5, 5843.)

§ 1238. To a bill establishing a standard of time for the District of Columbia, an amendment for distributing the benefits to the nation at large was held to be not germane. (V. 5, 5847.)

§ 1239. To a resolution authorizing a class of employes in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane. (V. 5, 5848.)

§ 1240. To a bill authorizing the court of claims to adjudicate a claim, an amendment providing for paying the claim outright was held not to be germane. (V. 5, 5850.)

§ 1241. To a proposition to pay a claim, an amendment proposing to send the claim to the court of claims was held not to be germane. (V. 5, 5851.)

§ 1242. A revenue amendment is not germane to an appropriation bill. (V. 5, 5852.)

§ 1243. To a proposition giving a committee power to investigate tariff subjects, an amendment commending tariff revision was held not to be germane. (V. 5, 5853.)

§ 1244. To a bill relating to the classification for customs purposes of worsted goods as woolens, an amendment relating to duties on wools and woolens and worsted cloths was held not to be germane. (V. 5, 5854.)

§ 1245. To a bill relating to the tariff between the United States and the Philippine Islands, an amendment relating to the tariff between the United States and all other countries was held not to be germane. (V. 5, 5857.)

§ 1246. To a proposition relating to the sale of internal

revenue stamps in Porto Rico, a proposition relating to posting lists of persons paying special taxes in the United States was held not germane. (V. 5, 5859.)

§ 1247. To a bill relating to the tariff between the United States and the Philippine Islands, an amendment declaratory as to the future sovereignty over those islands was held not germane. (V. 5, 5860.)

§ 1248. To a bill for the regulation of corporations engaged in interstate commerce, an amendment relating to tariff duties was held not to be germane. (V. 5, 5861.)

§ 1249. An amendment to repeal the duty on coal was held not to be germane to a proposition to pay for the investigation of a strike among coal miners. (V. 5, 5862.)

§ 1250. To a bill granting land to a railroad, an amendment allowing the importation of railroad iron free of duty is not germane. (V. 5, 5863.)

§ 1251. To a provision extending the customs and internal revenue laws of the United States over the Hawaiian Islands an amendment for effecting the extension of all the laws of the United States over those islands was offered and held not to be germane. (V. 5, 5864.)

§ 1252. To a revenue bill with incidental purposes to prevent adulteration of a certain food product, an amendment relating to interstate commerce in adulterated food products and drugs generally was decided not to be germane. (V. 5, 5866.)

§ 1253. A proposition for the annexation of Cuba was held not to be germane to a bill providing for reciprocal trade relations with that country. (V. 5, 5867.)

§ 1254. To a bill to protect trade and commerce against trusts, an amendment relating to duties on articles handled by trusts was held not to be germane. (V. 5, 5868.)

§ 1255. An amendment prohibiting aliens from coming temporarily into the United States to work was held not to be germane to a bill to regulate the immigration of aliens. (V. 5, 5871.)

§ 1256. To a resolution requesting information as to the amount of money in the Treasury of the United States, an amendment calling for information as to the number of dis-

tilleries in the United States was held not to be germane. (V. 5, 5875.)

§ 1257. An amendment in the nature of a substitute providing simply for the establishment of land offices was held not to be germane to a bill providing for the organization of a territorial government. (V. 5, 5876.)

§ 1258. To a bill relating to the sale of the public lands, an amendment proposing to give them to settlers was held not to be germane. (V. 5, 5877.)

§ 1259. To a bill relating to the sale of the public lands an amendment limiting alien ownership of land other than the public lands was held not to be germane. (V. 5, 5878.)

§ 1260. To a bill to enlarge the size of homesteads in a certain State, an amendment changing the commutation law as to homesteads generally was offered and held not to be germane. (V. 5, 5879.)

§ 1261. To a bill transferring the care of forest reserves to the Department of Agriculture, an amendment modifying the civil service rules as to officials in those reserves was held not germane. (V. 5, 5880.)

§ 1262. The distribution of seed grain to a class of destitute farmers was held not to be germane to the regular congressional seed distribution for the improvement of agriculture. (V. 5, 5881.)

§ 1263. To a proposition relating to the terms of service of Representatives and Senators, an amendment proposing election of Senators by the people was held not to be germane. (V. 5, 5882.)

§ 1264. To a bill providing for an issue of treasury notes, an amendment providing for the redemption of such notes by suspending the distribution of the proceeds of public land sales was held not to be germane. (V. 5, 5883.)

§ 1265. To a provision for the erection of a building for a mint, an amendment to change the coinage laws was held not to be germane. (V. 5, 5884.)

§ 1266. To a bill regulating the sale and speculation in certain farm products, an amendment providing for the free coinage of silver at a fixed ratio was held not to be germane. (V. 5, 5885.)

§ 1267. To a provision requiring a record and report of a certain class of mail matter, an amendment providing for entering mail matter of a certain class was held not germane. (V. 5, 5896.)

§ 1268. To a proposition to provide relief for destitute citizens of the United States in the island of Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality, etc., was held not germane. (V. 5, 5897.)

§ 1269. To a resolution for printing a document relating to the colonial systems of the world, an amendment providing for the printing of maps of Cuba was offered and held not to be germane. (V. 5, 5898.)

§ 1270. To a provision relating to transfers of clerks from one department to another, an amendment classifying the work of the clerks was held not to be germane. (V. 5, 5903.)

§ 1271. To a proposition to give an extra month's pay to the officers and employes of the House, an amendment to include clerks of the members was held not to be germane. (V. 5, 5904.)

§ 1272. To a bill relating to laying of conduits for telephone wires, an amendment relating to the prices to be charged for services was held not to be germane. (V. 5, 5905.)

Legislative Precedents.

§ 1273. Mr. Thomas of Fannin raised a point of order and said:

"That the resolution of Mr. Evans of Grayson provided that 1200 copies of the House Journal be published, and eight be given to each member daily. Mr. Vaughan moved to amend by inserting 'twenty-five copies to each member.' The resolution as amended would provide that 1200 copies be printed and twenty-five given to each member. That would be impossible and meaningless, and therefore out of order."

Sustained. (26th, p. 35.)

§1274. To House bill No. 57, the purpose of which was to require the officials of banks to make certain statements to tax assessors or their deputies, Mr. Lillard had offered an amendment. To this amendment Mr. Frost offered a substitute, which, instead of requiring the bank officials to give the required information, provided that the banks should render

for taxes and pay taxes thereon in bulk all moneys on deposit in their banks on the first day of January each year and prorate and charge the same to each depositor's account, and providing that should any depositor withdraw his deposits before the tax rate for any year shall have been ascertained, the bank had the right to retain in its possession to secure said tax five per cent of said deposit, etc.

Mr. Schluter raised the point of order that the substitute offered by Mr. Frost is not germane to the purpose of the original bill, because the original bill is simply amendatory of Chapter 112 of the Acts of the Twenty-fifth Legislature, which only provides a penalty for the failure or refusal of bank officials to furnish to the assessor of taxes a statement showing such facts as would enable the assessor to properly assess certain character of property; and the bill under consideration likewise only contemplates and provides for a like penalty for like failure of such bank officials to make such statement to the assessor of taxes, and does not attempt to regulate in any manner the mode of rendering property for taxation, which is clearly the sole purpose of the substitute.

The Speaker did not sustain the point of order raised by Mr. Schluter and stated that the members, having the printed bill before them, were in a better position to determine the consistency of an amendment than the Chair, and stated furthermore that it would be dangerous to lodge such power in the Chair.

On motion of Mr. Kennedy, the substitute by Mr. Frost was tabled.

Thus the House sustained the point of order made by Mr. Schluter. (26th, p. 374.)

§ 1275. *Parts of bills which have been stricken out by amendments cannot be reinserted by amendment.*

Mr. Henderson of Lamar raised the point of order that the amendment was not in order, for the reason that it sought, in a roundabout way, to insert in the bill something which had already been stricken out.

Sustained. (26th, p. 663.)

§ 1276. To a House bill prividing the mode by which horses, mules, cattle, etc., may be prevented from running at large in the counties of Cooke, Bell, Ellis, etc., or in any subdivision of said counties, Mr. Lillard offered an amendment, the substance of which was that when any county shall have adopted the stock law provided by the act, all land which

borders on such counties which have not adopted the general stock law shall be enclosed by the owner, if not already enclosed by a good, substantial fence. At or near the county line in all roads on lanes leading into a general stock law county there shall be erected by the commissioners court substantial gates with fastening for securing same when closed. Every owner of land bordering on a county line of a county which had adopted the stock law, refusing or neglecting to enclose his land as aforesaid was to be deemed guilty of a misdemeanor and subject to a penalty of $5, each week of such refusal to constitute a separate offense. The commissioners court of each county adopting the general stock law was required to have placed in conspicuous position on or near each public gate a substantial signboard not less than three feet long and eighteen inches wide, which signboard should have painted on each side, "General stock law county. Five dollar fine to leave this gate open." It was further provided that the willful leaving of any public gate open or the willful neglect to close and latch such gate, or the knocking down or defacing of any such stock law signboard, was a misdemeanor and punishable by a fine of not more than five dollars.

Mr. Powell raised the point of order on the amendment by Mr. Lillard that it is not in order, for the reason that it is not germane to the bill, as the bill is drawn under Article 16, Section 23, of the Constitution, when the amendment is in regard to fences, as provided in Section 22 of said article. And, further, because the effect of such amendment would be obstructing public highways.

Sustained. (26th, p. 790.)

§ 1277. The House was considering the Comptroller's Department of the appropriation bill. Mr. Childers offered an amendment to reduce a $1350 item to $1000.

Mr. Decker offered a substitute, viz.: 'That House bill No. 111 be adopted down to line 28, page 32, provided the appropriation to the State University may be amended or added to."

(Mr. Smith of Grayson in the chair.)

Mr. Jones raised the point of order that the substitute by Mr. Decker was not germane to the item under consideration, and therefore not in order at this time.

Sustained. (26th, p. 1028.)

§ 1278. Mr. Caldwell offered the following amendment to the general appropriation bill:

"Amend by adding between lines 20 and 21, page 8, the following: For salary due bailiff of Supreme Court for 1895, $100; for the year 1896, $100; for the year 1897, $150; for the year 1898, $150; total, $500. Of this amount $250 to be applied for the relief of M. M. Johnson, bailiff, and $250 for the relief of L. K. Smoot, bailiff.'"

Mr. Lane raised the point of order that the above amendment is not germane to this bill, but properly belongs in a general deficiency bill, and, therefore, should not be considered.

The Chair (Mr. Smith of Grayson) sustained the point of order. (26th, p. 1097.)

§ 1279. An amendment to the appropriation bill providing for the purchase of a portrait of Governor Culberson.

Mr. Terrell offered an amendment to strike out the word "Culberson" and insert "Santa Anna."

Mr. Shelburne raised the point of order that the substitute by Mr. Terrell was not germane to the amendment.

Sustained. (26th, p. 1245.)

§ 1280. To a bill creating a State Industrial School, Mr. Terrell of Cherokee offered an amendment providing that instead of the State Industrial School that the normal schools "provide courses of study in the industrial arts especially for girls."

Mr. Lively raised the point of order that the amendment is not germane to the bill under consideration, and should not be entertained.

Sustained. (27th, p. 715.)

§ 1281. To a bill to aid the city of Galveston in elevating and raising said city so as to protect it from overflows by donating and granting certain taxes to it for a certain period of years, Mr. Parish offered the following amendment:

"Add after the word 'Galveston' the following: 'And the counties of Brazoria, Fort Bend, Waller, Austin, Washington, Grimes, Burleson, Brazos, Milam and Robertson in elevating, leveeing and raising said city and the banks of the Brazos river in said counties'; and on page 4, line 10, after the word 'Texas,' as follows: "All of the provisions of this bill as to collecting and application of taxes collected shall apply also to the counties of Brazoria, Fort Bend, Waller, Austin, Washington, Grimes, Burleson, Brazos, Milam and Robertson to enable them to levee the banks of the Brazos river in places where it overflows and to build roads and bridges."

borders on such counties which have not adopted the general stock law shall be enclosed by the owner, if not already enclosed by a good, substantial fence. At or near the county line in all roads on lanes leading into a general stock law county there shall be erected by the commissioners court substantial gates with fastening for securing same when closed. Every owner of land bordering on a county line of a county which had adopted the stock law, refusing or neglecting to enclose his land as aforesaid was to be deemed guilty of a misdemeanor and subject to a penalty of $5, each week of such refusal to constitute a separate offense. The commissioners court of each county adopting the general stock law was required to have placed in conspicuous position on or near each public gate a substantial signboard not less than three feet long and eighteen inches wide, which signboard should have painted on each side, "General stock law county. Five dollar fine to leave this gate open." It was further provided that the willful leaving of any public gate open or the willful neglect to close and latch such gate, or the knocking down or defacing of any such stock law signboard, was a misdemeanor and punishable by a fine of not more than five dollars.

Mr. Powell raised the point of order on the amendment by Mr. Lillard that it is not in order, for the reason that it is not germane to the bill, as the bill is drawn under Article 16, Section 23, of the Constitution, when the amendment is in regard to fences, as provided in Section 22 of said article. And, further, because the effect of such amendment would be obstructing public highways.

Sustained. (26th, p. 790.)

§ 1277. The House was considering the Comptroller's Department of the appropriation bill. Mr. Childers offered an amendment to reduce a $1350 item to $1000.

Mr. Decker offered a substitute, viz.: "That House bill No. 111 be adopted down to line 28, page 32, provided the appropriation to the State University may be amended or added to."

(Mr. Smith of Grayson in the chair.)

Mr. Jones raised the point of order that the substitute by Mr. Decker was not germane to the item under consideration, and therefore not in order at this time.

Sustained. (26th, p. 1028.)

§ 1278. Mr. Caldwell offered the following amendment to the general appropriation bill:

"Amend by adding between lines 20 and 21, page 8, the following: For salary due bailiff of Supreme Court for 1895, $100; for the year 1896, $100; for the year 1897, $150; for the year 1898, $150; total, $500. Of this amount $250 to be applied for the relief of M. M. Johnson, bailiff, and $250 for the relief of L. K. Smoot, bailiff.'"

Mr. Lane raised the point of order that the above amendment is not germane to this bill, but properly belongs in a general deficiency bill, and, therefore, should not be considered.

The Chair (Mr. Smith of Grayson) sustained the point of order. (26th, p. 1097.)

§ 1279. An amendment to the appropriation bill providing for the purchase of a portrait of Governor Culberson.

Mr. Terrell offered an amendment to strike out the word "Culberson" and insert "Santa Anna."

Mr. Shelburne raised the point of order that the substitute by Mr. Terrell was not germane to the amendment.

Sustained. (26th, p. 1245.)

§ 1280. To a bill creating a State Industrial School, Mr. Terrell of Cherokee offered an amendment providing that instead of the State Industrial School that the normal schools "provide courses of study in the industrial arts especially for girls."

Mr. Lively raised the point of order that the amendment is not germane to the bill under consideration, and should not be entertained.

Sustained. (27th, p. 715.)

§ 1281. To a bill to aid the city of Galveston in elevating and raising said city so as to protect it from overflows by donating and granting certain taxes to it for a certain period of years, Mr. Parish offered the following amendment:

"Add after the word 'Galveston' the following: 'And the counties of Brazoria, Fort Bend, Waller, Austin, Washington, Grimes, Burleson, Brazos, Milam and Robertson in elevating, leveeing and raising said city and the banks of the Brazos river in said counties'; and on page 4, line 10, after the word 'Texas,' as follows: "All of the provisions of this bill as to collecting and application of taxes collected shall apply also to the counties of Brazoria, Fort Bend, Waller, Austin, Washington, Grimes, Burleson, Brazos, Milam and Robertson to enable them to levee the banks of the Brazos river in places where it overflows and to build roads and bridges."

Mr. Seabury raised the point of order that the amendment offered by Mr. Parish and others was not germane to the bill under consideration for the reason that while the bill proposed provided for the return of certain taxes to the city of Galveston to be used for the redemption of bonds to be issued by that city for raising the grade of parts of the city and protecting it from calamitous overflows, amendment provided for the return of taxes to certain other counties along the Brazos river to be used in constructing levees along that river and building roads and bridges. The objects sought to be accomplished are essentially different, but that if they were the same, a bill to relieve one city or county could not be amended so as to relieve another city or county.

Sustained. (27th, p. 1123.)

§ 1282. Mr. Isaacks offered a resolution inviting ex-Governor Hogg to address the members of the House in the Hall at a future date.

Mr. Johnson offered an amendment adding, "and also any other gentleman who may desire to speak.

Mr. Timon proposed a substitute for the amendment: "Amend by adding after the word 'Hogg' the name of Colonel Travis Henderson."

Mr. Hancock raised a point of order on consideration of the amendment to the amendment, stating that it is not germane to the amendment it proposes to amend.

Sustained. (28th, p. 643.)

§ 1283. To Senate bill authorizing the Chicago, Rock Island & Pacific Railway Company to purchase, own and operate as a part of its line the railroad of the Chicago, Rock Island and Texas Railway Company, Mr. Fowler offered an amendment:

"Amend by adding to Section 6 the following: 'Provided, that the acceptance of the provisions of this act is an agreement on the part of the said railroad company to abide by and submit to the rates, rules, regulations and requirements of the Railroad Commission of Texas, until the same are set aside by a court of competent jurisdiction on final trial."

Mr. Shannon offered as an amendment to the amendment making it unlawful for said railway company to give away any free transportation to any person, excepting bona fide employes, requiring the railroad company to report annually under oath to whom free transportation, if any, was issued,

and making a failure to make such report grounds for the forfeiture of the charter.

Mr. Harris raised a point of order on its consideration, stating that the proposed amendment was not germane to the amendment which it proposed to amend. This point of order was sustained, whereupon Mr. Shannon then offered an amendment as a substitute for the amendment, and Mr. Harris again made the point of order that it was not germane to the amendment, which was sustained. (28th, p. 704.)

§ 1284. Senate bill provided for a mineral survey of the public school, University and asylum lands and other mineral lands.

Mr. Baines offered an amendment withdrawing from sale all school, University and asylum lands west of the Pecos river.

Mr. Bridgers raised a point of order on consideration of the amendment, stating that it was not germane to the purpose of the bill.

Sustained. (28th, p. 1113.)

§ 1285. The House was considering a bill relating to the local option law, which as amended provided:

"That nothing in this article shall be construed to prevent the sale of alcoholic stimulants by merchants doing a wholesale drug business, in the usual course of business, to retail merchants, whose regular and principal business is selling drugs and medicines and compounding prescriptions; provided, that nothing in this article shall be so construed as to permit sales by such merchants to the consumer."

Mr. Onion offered the following amendment:

"No election under the preceding article shall be held within the same prescribed limits in less than two years after an election under this title has been held therein; but at the expiration of that time the commissioners court of each county in the State, wherever they deem it expedient, may order another election to be held by the qualified voters of said county, or any justice's precinct or such subdivision of a county as may be designated by the commissioners court of such county, for the same purpose; provided, it shall be the duty of such court to order the election aforesaid whenever petitioned to do so by as many as two hundred voters in any county, or fifty voters in any justice precinct or subdivision of such county, as the case may be, to order an election for the same purpose, which election shall be ordered held, notice

thereof given, the votes returned and counted, and the result declared and published, in all respects as provided by this title for a first election; and the order shall, if prohibition be carried, have the same force and effect and the same conclusiveness as are given to them in the case of a first election by the provisions of this title."

Mr. Brelsford raised a point of order on consideration of the amendment, stating that it was not germane to the purpose of the bill.

Sustained. (28th, p. 1164.)

§ 1286. The House still considering bill relating to the local option law as mentioned above (see 28th, p. 1164), Mr. Onion offered the following amendment:

"Provided, that when prohibition has been or may hereafter be carried at an election ordered and held for the entire county, or any subdivision thereof, any incorporated city therein having a population of four thousand inhabitants or over, which at said election cast a majority of votes against prohibition, shall have the right after sixty days to hold an election to determine whether or not the sale of intoxicating liquors shall be prohibited within the limits of such city; and the commissioners court shall in said case and upon the petition of fifty qualified voters of such city order an election to be held therein for the purpose aforesaid; which election shall be held, notice thereof given, the votes returned and counted and the result declared and published in all respects as provided by this title for a first election, and the order granting such election as well as that declaring the result, shall, if prohibition be carried in such city, have the same force and effect and the same conclusiveness as are given to such orders in the case of a first election; and no election on the question of prohibition shall thereafter be ordered or held in such city for a period of two years; provided further, that in holding such county election such city shall record its vote separately from the remainder of the county."

Mr. Hodges raised a point of order on consideration of the amendment, stating that it is not germane to the purpose of the bill.

Overruled.

Mr. Hodges appealed from the ruling of the Chair.

Yeas and nays were demanded, and the House refused to sustain the ruling of the Chair. (28th, p. 1165.)

§ 1287. Mr. Calvin offered a resolution providing for the

discharge of all employes of the regular session and for appointment of certain other employes.

Mr. Nowlin offered an amendment to the resolution by adding the following: "That all employes of this House who were appointed by the Speaker be retained at the same wages to serve this special session of the Legislature."

Mr. Calvin raised a point of order on consideration of the amendment, stating that it was not germane to the purpose of the original resolution.

Sustained. (28th, called, p. 5.)

§ 1288. Mr. Bryant had offered an amendment to the general appropriation bill, striking out the appropriation of $400,000 for the support, maintenance and running of the penitentiary system.

Mr. Weinert proposed a substitute as follows:

"For investigation, detection and prosecution of all defaulting officers and agents of the State and for the payment of fees of an able attorney to assist the Attorney General in that work, etc., $5000."

Mr. Bryant raised a point of order on consideration of the substitute, stating that it is not germane to the amendment.

Sustained. (28th, called, p. 145.)

§ 1289. *Resolution providing for the election of a certain person to an office cannot be amended so as to elect a different person.*

To a resolution naming Miss Lane as assistant enrolling clerk, an amendment was offered naming Mrs. Robinson, which, on a point of order being made that it was not germane to the original resolution, was ruled out of order. (29th, p. 75.)

§ 1289a. To a bill relating to the franchise tax of insurance corporations, Mr. Cobbs offered an amendment as follows. "That such fire insurance companies, when requested by any mayor of any city having a population of 25,000 or more, shall report to such city, under oath, giving the names of all merchants who have insured their stock of goods for any one year in a sum of $30,000 or more.

Mr. Bowser raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

Sustained. (29th, p. 183.)

§ 1290. To a bill relating to carrying arms so as to include any knife with a blade exceeding four inches long and by

increasing the penalty from not less than $100 and not more than $200 and also fixing a jail penalty, this amendment was offered:

"The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or a policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process."

Held not germane. (29th, p. 223.)

§ 1291. To a bill to exempt from the control of the husband the separate property of the wife, together with all rents and revenues therefrom and to exempt the same from the debts contracted by the husband, Mr. Smith offered this amendment:

"As respects such property, the wife may contract, be contracted with, sue or be sued, without joining or being joined by her husband."

Held not germane to the bill. (29th, called, p. 23.)

§ 1292. A bill was pending which provided for an occupation tax on railroads, the same to be measured by the receipts of said roads. An amendment was offered for the entire bill which proposed a tax board and a method of ascertaining the unassessed intangible values of railroads and numerous other corporations instead of the occupation tax.

Mr. Love of Dallas raised a point of order on consideration of the amendment on the ground that it is not germane and that the amendment which is, in effect, an entire substitute for the bill under consideration, injects new matter and changes the purpose of the bill.

Sustained. (29th, p. 257.)

§1293. Senate bill No. 70 was to authorize the T. & N. O. R. R. Co. to sell its line under certain restrictions. To these Mr. Mays wanted to add the further condition that before the terms of the act should become in anywise effective, the T. & N. O. and the H. & T. C. and the H. E. & W. T. railroad companies should each cancel and reduce the amount of its outstanding stocks and bonds and other liabilities to an amount to be fixed by the Railroad Commission of Texas

under the stock and bond law of the State. It was also made the duty of the Commission to see that this provision of the law was enforced by directing the cancellation of the excess of said stocks, bonds and other liabilities, as aforesaid.

Mr. Brown of Kaufman raised a point of order on the consideration of the amendment on the ground that it is not germane.

Sustained. (29th, p. 723.)

§ 1294. *Amendment providing for a daily session of the House at 9 a. m., instead of 10 o'clock, not germane to a motion to set apart Tuesday and Wednesday morning for the consideration of House bills on third reading.*

For a motion to set apart Tuesday and Wednesday mornings for the consideration of House bills on third reading, Mr. Rice offered substitute providing that the House meet each day at 9 a. m. instead of 10 o'clock.

Mr. Barcus raised a point of order on consideration of the substitute on the ground that it is not germane.

Sustained. (29th, p. 946.)

§ 1295. *Amendment prohibiting legislators from accepting railroad passes, rebates, etc., is not germane to an amendment prohibiting members drawing mileage if they used passes.*

To House joint resolution fixing the salary of legislators, Messrs. Terrell and Kennedy offered an amendment prohibiting members drawing mileage if they used any free ticket or pass going to or returning from the State capital.

Mr. Guinn offered a substitute which sought to prohibit the acceptance by legislators of passes, rebates or other favors from railroad, telegraph, express companies, etc., not granted to the general public.

Mr. Onion raised a point of order on consideration of the substitute on the ground that it is not germane.

Overruled.

After some consideration of the matter, Mr. Heslep then renewed the point of order on consideration of the substitute, holding that it is not germane, and the Chair, this time, sustained the point of order. (29th, p. 953.)

§ 1296. *An amendment fixing the salary of the Governor not germane to a joint resolution fixing the salary of the members of the Legislature.*

To a House joint resolution fixing the salaries of members of the Legislature, Mr. Witcher offered this amendment:

"And the Governor shall receive a salary of eight thousand dollars per annum."

Mr. Hamilton raised a point of order on consideration of the amendment, on the ground that it is not germane.

Sustained. (29th, p. 953.)

§ 1297. *An amendment seeking to prohibit the levy of an occupation tax on merchants, etc., not germane to House joint resolution relating to the exemption of the property of schools and colleges from taxation.*

To a House joint resolution amending the Constitution relating to the exemption of certain property (schools and colleges) from taxation, Mr. Kennedy offered this amendment:

"Provided, that nothing herein shall authorize the levying of an occupation tax on merchants" and some ten or fifteen businesses of a necessary and innocent nature.

Mr. McKinney raised a point of order on consideration of the amendment on the ground that it is not germane.

Sustained. (29th, p. 1358.)

§ 1298. *An amendment authorizing the holders of a claim to bring suit against the State not germane to a general deficiency appropriation bill.*

The general deficiency appropriation bill carried with it an item to pay a claim of $2972 for building a laundry at the epileptic colony at Abilene. This had been stricken out of the bill.

Mr. Shannon offered this amendment to the bill:

"The item in the pending bill under the head of 'Epileptic Colony,' providing for the erection of a laundry and purchase of machinery, year ending August 31, 1904, $2972, having been stricken out by the House, the owner and holder of said claim or his assigns are hereby authorized to sue the State of Texas for said amount, and either party to the suit shall have the right of appeal, and any judgment finally established against the State shall be a liquidated debt, which shall be paid by the State. That this be inserted in lieu and place of the item stricken out; and provided further, that the Attorney General shall appear and defend the suit in behalf of the State."

Mr. Moran raised the following points of order on the consideration of the amendment:

First—That the amendment is not germane to the bill.

Second—That the amendment contains legislation not men-

tioned in the Governor's call nor subsequently submitted by him to this session of the Legislature.

The Speaker, on ruling on the points of order, said: "As to the second point of order raised by the gentleman from Parker, the Chair holds that it is entirely a question of the constitutionality of the subject matter contained in the amendment. The Chair cannot pass on questions of constitutional law (except where they arise out of the rules of legislative procedure contained in the Constitution, and are therefore true points of order), but must leave them to the House, and subsequently to the courts, for determination. The second point of order is overruled.

"As to the first point of order, the Chair thinks that the House is governed not only by the provision in the rules that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. (Rule XIX, Section 4), but also by the constitutional limitation that no bill shall be so amended in its passage through either house as to change its original purpose. (Constitution, Article III, Section 30.) The effect of the constitutional provision quoted is to narrow the definition of germaneness and to exclude many amendments which relate to the general subject of the original proposition, but which changes its original purpose by eliminating essential parts of it or by adding new matter on the same subject, or by alterations in essential portions. The national House of Representatives has an identical rule on the subject of germaneness, but is not limited by an equivalent for the said provision of our Constitution, and its decisions therefore, are applicable to cases arising here only when they sustain objections to amendments. Many objections are overruled that would come within our constitutional prohibition.

"We have no provision in our rules prohibiting legislation in appropriation bills, as has the national House of Representatives, but this ground is as fully covered by the following clause from our Constitution:

" 'No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title.' (Constitution, Article III, Section 35.)

"This clause, apart from the exception, would, in the opinion of the Chair, prevent the insertion of legislation of any character in the appropriation bill, since that would introduce

an additional subject. The exception makes this position stronger, since by specifically permitting the introduction into the bill of the various subjects and accounts of appropriation it raises an implied prohibition of the insertion in the bill of any other matters or legislation whatsoever. The term 'general appropriation bills' is used in contradistinction to special appropriations for one specific purpose, and, in the opinion of the Chair, includes deficiency appropriation bills and emergency appropriation bills as well as the biennial appropriation bill for the maintenance of the State government, commonly known as 'the general appropriation bill.'

"Now, the amendment in question does not make any appropriation, but merely authorizes suit against the State to establish the validity of a claim for which the House has refused to make an appropriation, and provides that any judgment recovered shall become a liquidated demand against the State and shall be paid by the State. Should a judgment be recovered under this amendment, it could not be settled until some future Legislature should make an appropriation for its payment. The Chair does not now hold that the Legislature is without power to attach to items of appropriation in a general appropriation bill conditions on the performance of which the particular appropriation should become effective, or even prescribe the method, procedure, etc., of its payment. But the amendment as presented does neither of these things. It is not an appropriation in itself nor an appropriation with conditions, but it is a subject of legislation entirely distinct from the bill (the only point of contact, towit, the appropriation for the payment of this claim, having been already stricken out of the bill) and the Chair therefore holds that, under the provision of our rules and the sections of the Constitution cited, this amendment is not germane to the general deficiency appropriation bill now before the House. The first point of order raised by the gentleman from Parker is sustained." (29th, called, p. 78.)

§ 1299. *An amendment declaring that it was not the purpose of the House to pass on certain charges against a United States Senator was not germane to a resolution providing for the appointment of a committee to ascertain the author or authors of an alleged libelous newspaper article relating to the election of said Senator.*

A resolution and a substitute providing for the appointment of a committee to ascertain the author, or authors, of certain

libelous and slanderous articles appearing in a New York paper relative to the election of United States Senator Bailey.

Mr. Gaines offered the following amendment to the substitute: "Amend by adding: 'Be it further resolved, That in passing this resolution it is not the purpose of the House to exonerate Senator Bailey from the charges pending against him or in any way to pass on said charges pending the investigation nor is it the purpose of the House to influence public sentiment in favor of Senator Bailey by this resolution."

Mr. Hamilton raised the point of order on consideration of the amendment by Mr. Gaines that it is not germane, and therefore should not be entertained.

Sustained. (30th, p. 260.)

§ 1300. *An amendment relating to loans and the security therefor, not germane to a general banking law in reference to the reserve funds of banks.*

To bill amending section 7 of the general banking law, in reference to the reserve fund, Mr. Blanton offered an amendment also amending Section 2, relating to loans and security therefor, and also repealing Section 21 of the banking law.

Mr. Gafford raised a point of order on consideration of the amendment, on the ground that it is not germane to the purpose of the bill.

Sustained. (30th, p. 881.)

§ 1301. *An amendment seeking to tax only the equity a man has in real estate and providing that the debts against real estate should be rendered by the owner of the lien is not germane to a bill to prohibit frauds upon the public revenues.*

To a bill to prohibit frauds upon the public revenues, and defining what is a fraud upon the public revenues, Mr. Robertson of Travis offered an amendment to tax only the equity a man has in realty, and that the debts against it should be rendered by the owner of the mortgage or lien.

Mr. Stratton raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill.

The Chair sustained the point of order and held the amendment not germane.

Mr. Robertson of Travis appealed from the ruling of the Chair, and the House sustained the ruling. (30th, p. 970.)

§ 1302. *An amendment prescribing the procedure in refer-*

ence to the summoning of special veniremen, not germane to a bill providing for the pay of special veniremen.

To a bill to pay special veniremen, Mr. Jenkins offered this amendment:

"Section 2. No venire shall be summoned in any case unless the district or county attorney prosecuting the case shall first file a written motion therefor in which he shall state that he believes the evidence will justify a conviction for a capital offense or a verdict for life sentence in the penitentiary."

Mr. Fuller raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The Chair sustained the point. (30th, pp. 1069-1070.)

§ 1302a. Senate bill No. 24 still pending, Mr. Ray offered this amendment:

"Section 4a. The schedule of regular rates for long-distance business in force by telephone and telegraph companies in this State on the first day of January, 1907, shall be, and is hereby made, the maximum rates to be charged by the respective companies hereafter for such or similar service. The rates for telephone companies shall be non-discriminating, and it shall be unlawful for any telephone company to charge a higher rate for any form of local telephone service or long-distance telephone service between different persons in any one exchange or between any two or more points on its long-distance lines; and for local exchange service a telephone company shall charge the same rate for substantially the same service in one town as charged by said company in another town, where the exchanges come within the same class as here specified. Class No. 1 shall consist of telephone exchanges in which there are not more than five hundred telephones in operation in each said exchange; class No. 2 shall consist of telephone exchanges in which there are not more than one thousand telephones in operation in each such exchange; class No. 3 shall consist of telephone exchanges in which there are not more than three thousand telephones in operation in each such exchange, and class No. 4 shall consist of telephone exchanges in which there are three thousand or more telephones in operation in each such exchange."

Mr. Onion raised the following points of order on consideration of the amendment, viz.: (1) The amendment contains subject matter not embraced in the call of the Governor; (2) the amendment contains subject matter that was rejected

by the House in the amendment by Mr. Ray just voted down; (3) the amendment is not germane to the bill.

The Chair held the (1) and (2) points of order not well taken, and sustained the (3), so the amendment was held out of order. (30th, called, p. 240.)

§ 1303. *An amendment to submit the question of compulsory attendance upon public schools to a vote of the people is held not germane to a bill providing for compulsory attendance upon said schools.*

Pending consideration of a bill providing for compulsory attendance upon the public schools, Mr. Terrell of Cherokee offered an amendment submitting the question to a vote of the people.

Mr. Trenckmann raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

Sustained. (31st, p. 346.)

§ 1304. *Held not germane to offer as an amendment to a bill establishing a new civil court in Bexar county an entirely new bill providing for a court with both civil and criminal jurisdicton.*

House bll No. 12 sought to establish a new civil court for Bexar county, and Mr. Maddox offered a new bill as an amendment.

Mr. Terrell of Bexar raised a point of order on consideration of the amendment on the grounds.

(1) That the amendment could not be considered because of the fact that it proposed an entirely new bill from the original, and that the constitutional provision with reference to the publication of the intention to apply for local or special bills had not been made.

(2) That the amendment was not germane because the original bill provided for a court to try civil cases only, whereas the amendment proposed a court with both civil and criminal jurisdiction.

The Chair held the point of order well taken.

Mr. Maddox appealed from the ruling of the Chair.

Yeas and nays were demanded, and the ruling of the Chair was sustained by a vote of 77 to 10. (31st, p. 351.)

§ 1305. *An amendment providing for the use of the Pari-Mutuel machine in wagering on horse racing was not germane to a bill prohibiting the buying and selling of pools, betting on horse racing, etc.*

To a bill prohibiting the buying and selling of pools or betting on horse racing and prohibiting the leasing of premises for pool rooms, etc., Mr. Crawford offered as an amendment an entirely new bill, Secion 6 of which provided that nothing in Sections 1, 2 or 3 of the act should be construed as prohibiting the use by legally organized and duly chartered associations operated for the exhibition and development of agriculture, etc., of the Pari-Mutuel machine system of wagering on horse races, provided such Pari-Mutuel machines are used on the day within the enclosure, and provided the period of racing shall not exceed fifteen days for any association in any year, etc.

Mr. Fitzhugh raised a point of order on consideration of the amendment on the ground that it was not germane to the purpose of the bill.

The Speaker sustained the point of order.

Mr. Crawford appealed from the ruling of the Chair.

The House sustained the ruling. (31st, p. 445.)

(Note.—This amendment was not germane because the bill prohibited pool selling and betting on horse races, while the amendment authorized the selling of pools and betting on horse races under restricted conditions.—Editor.)

§ 1306. *Example of an amendment not germane.*

(a) To a bill regulating assessment and collection of taxes in cities and towns which have heretofore abolished or may hereafter abolish their corporate existence, Mr. Crockett of Mitchell offered an amendment.

(b) This amendment exempted from the provisions of this bill cities or towns which have abolished their corporate existence and after being incorporated include same area within their limits. It also construed the act as not applying to any city or town whose incorporation had been declared void by the final judgment in a court of competent jurisdiction.

(c) It also exempted any dissolved city corporation that had become or attempted to become such city, while incorporated as a town, prior to March 27, 1885, without first having abolished its corporate existence of such town.

This amendment was declared out of order because it was not germane to the bill. (31st, p. 471.)

§ 1307. *Amendment prohibiting minors from accepting intoxicating liquors held not germane to a bill preventing the giving of intoxicating liquors to any person not twenty-one years of age without the consent of the parent.*

To a bill preventing the giving of any intoxicating liquors to any person under the age of twenty-one years without the consent of the parent or guardian, an amendment was offered prohibiting any minor accepting any such intoxicating liquors.

Mr. Jennings raised a point of order on consideration of the amendment, on the ground that it is not germane to the purpose of the bill.

Sustained. (31st, p. 474.)

§ 1308. *Instance where the subject matter of an amendment was not germane to a pending amendment.*

Bank guaranty bill pending.

Mr. Ray offered an amendment changing its original purpose. To this Mr. Jennings offered a substitute which changed the purpose of the Ray amendment.

Mr. Fitzhugh raised a point of order on consideration of the substitute on the ground that the substitute offered to the amendment proposed by the gentleman from Denton (Mr. Ray) to his original bill is out of order for the reason that the subject matter of the same is not germane to the pending amendment.

The Speaker sustained the point of order, stating that the substitute by Mr. Jennings is not germane to the amendment by Mr. Ray to House bill No. 71, and is, therefore, out of order as a substitute. Also that the amendment by Mr. Ray is not germane to the original bill, and is therefore out of order. (31st, p. 555.)

§ 1309. *An amendment proposing a voluntary system of bank guaranty not germane to a bill providing for a mandatory system.*

Pending bill provided for a mandatory system of bank guaranty, while amendment proposed a voluntary system.

Mr. Ray raised a point on consideration of the amendment to the amendment on the ground that the amendment by Mr. Nickels is not germane to the purpose of the pending bill and amendment, for the reason that the pending bill and amendment provides for a system of mandatory bank guaranty, while the amendment by Mr. Nickels seeks to establish a voluntary system.

The Speaker sustained the point of order. (31st, p. 558.)

§1310. *An amendment to exempt farmers from a bill, the purpose of which was to procure the best men for jury service, held not germane.*

To House bill relating to jury service, Mr. Hill offered an amendment exempting all farmers following the plow in plowing season.

Mr. Adams raised a point of order on consideration of the amendment to the amendment on the ground that the purpose of the bill is to procure the best men for jury service and the purpose of the amendment is to exempt the farmers from jury service and thereby eliminate the best class of men from jury service, and is, therefore, not germane to the purpose of the bill.

The Chair held the point of order well taken. (31st, p. 587.)

§ 1311. *An amendment requiring the Legislature to work six days and prohibiting any member from being excused to practice law, not germane to an amendment to the rules providing that it should not be in order for the Speaker to entertain a motion that the House accept an invitation to visit any place.*

Considering an amendment to the rules providing that it should not be in order for the speaker to entertain any motion that the House accept an invitation to visit any place.

An amendment was offered requiring the Legislature to work from sunup till sundown six days each week, and attend church on Sunday.

An amendment prohibiting any member of the Legislature from being excused to practice law.

Mr. Mobley raised a point of order on consideration of the amendment, and the amendment to the amendment, on the ground that they were not germane to the purpose of the resolution.

The Speaker sustained the point of order. (31st, p. 663.)

§ 1312. *An amendment prohibiting railroad companies from accepting defectively baled cotton not germane to a bill prohibiting compresses from improperly baling cotton.*

The object and purposes of a bill cannot be changed by an amendment.

Mr. Johnson raised a point of order on consideratiin of the amendment on the ground that the amendment offered by Mr. Moller is not germane to the bill.

The Chair held the point of order well taken, stating that the bill seeks to prohibit the compress and other people from improperly baling their cotton, and the amendment seeks to do an entirely different thing—that is, to prohibit railroad

companies from accepting such defective bales. (31st, p. 680.)

The same question involved in page 680. The facts were the same.

Mr. Johnson raised a point of order on consideration of the amendment on the ground that it was not germane to the purpose of the bill.

The Chair (Mr. Fitzhugh) sustained the point of order.

Mr. Moller appealed from the ruling of the Chair, and the appeal was seconded.

The House sustained the ruling of the Chair. (31st, p. 681.)

§ 1313. *It was not germane to offer as an amendment a proposition for the purpose of facilitating the collection of damage claims to a bill, the object of which was to prohibit the barratrous practice of law.*

House bill No. 122, A bill to be entitled "An Act to provide against the barratrous practice of law by providing that contracts and agreements for the contingent and percentage fees for the collection, by suit or otherwise, of claims for damage, to be valid and enforceable in the courts of this State, shall be in writing, and providing in case suit is brought upon such claim, that a copy or draft of such contract or agreement shall be filed, and kept on file, with the papers in the cause, and providing for an offset or remittitur against the judgment that may be recovered upon such cause to the extent of the contingent fee in case it be shown, or appear, that such agreement or contract is barratrous, providing for procedure to that end, and declaring an emergency."

"Amend by adding the following section: 'Any offer of settlement or compromise of any claim for personal injuries made by any individual or corporation to any person having such claim, before such person having such claim has recovered from such personal injuries as far as such injuries permit of recovery, or, in case of the death of such injured person, before his or her burial, may be introduced in evidence on the trial of any suit arising out of such personal injuries. When such offer of settlement or compromise is offered in evidence it shall be taken as prima facie proof of the negligence on the part of such individual or corporation making such offer of settlement or compromise to the injured party."

Mr. Nickels raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill.

Overruled. (31st, p. 827.)

(Note.—Evidently the Chair (Mr. Standifer) did not understand the purport, purposes and objects of the two propositions. The bill had for its object the prohibition of the barratrous practice of law, while the amendment was clearly for the purpose of facilitating the collection of damage claims. It may be that the contention will be made that the subject matter of the bill and of the amendment was "damage claims." Looking at it from that standpoint, the bill was to hinder the collection of claims and the amendment was to make their collection practically absolutely certain, each going in opposite directions. Therefore, the adoption of the amendment would have changed the purpose of the bill, hence not germane.—Editor.)

§ 1314. *A substitute for an amendment which proposes to amend a different part of a bill from that of the amendment is not germane to the amendment.*

Pending House bill regulating the place where railroad comroad companies shall keep and permanently maintain their general offices, shops and roundhouse, etc., Mr. Lee offered an amendment to page 1, line 26, and Mr. Stevenson offered a substitute amendment amending line 30.

Mr. Mobley raised a point of order on consideration of the substitute on the ground that it is not germane to the purpose of the amendment.

Sustained. (31st, p. 883.)

(Note.—The amendment was amendatory of line 26, while the substitute proposed to amend line 30.—Editor.)

§ 1315. *Held not germane to amend a bill, the object of which was to positively establish a factory, so as to leave it optional with certain persons as to whether or not the factory would be established.*

To a bill providing for the location and establishment of the East Texas Penitentiary by the Board of Prison Commissioners of a factory for the manufacture of cotton bagging and cotton sacks, etc., for the employment of managing experts, of certain convicts in the operation of said factory, making an appropriation, etc., Mr. Terrell of Cherokee offered the following amendment:

"Provided, that the Board of Prison Commissioners, in

their discretion, are hereby authorized and empowered to purchase the necessary machinery for the manufacture of jute bagging, jute sacks, jute twine and such other articles made of jute as can be manufactured and sold at a profit if, in their judgment, cotton bagging cannot be made and sold without loss to the State, and the said Prison Commissioners are further authorized and empowered to manufacture ties to wrap the cotton or to go into the market and purchase ties in large quantities to furnish with the bagging in order to supply the demand for bagging and ties."

Mr. McDaniel raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill.

Sustained. (32nd, p. 802.)

§ 1316. *It is not germane to amend a bill repealing a certain law by inserting the identical law sought to be repealed.*

A bill was pending which had for its object the repeal of a section of an act passed by the First Called Session of the Thirtieth Legislature. Mr. McDaniel offered an amendment striking out all after the enacting clause and reinserting Section 12 as it then existed.

Mr. Schluter raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill.

Sustained.

§ 1316a. *The purposes of an amendment cannot be changed by an amendment to the same.*

The House was considering a bill requiring persons or corporations convicted of a violation of the anti-trust law of the State of Texas or the United States, or their successors doing business in this State, to file an annual report. Mr. Hunter offered an amendment which had for its purpose the protection from prosecution of any person or persons for any violation of this act done previous to the taking effect of this law. Whereupon Mr. Bagby offered a substitute striking out the word 'heretofore," which, had it been adopted, would have protected all persons, which was contrary to the amendment; hence a point of order raised by Mr. Stevens on the consideration of the substitute on the ground that it was not germane to the purposes of the amendment.

Sustained. (32nd, p. 967.)

§1317. *An item properly belonging to a general appropriation bill cannot be placed by amendment in a bill making appropriations for deficiences in appropriations hertofore made for the support of the State government.*

Pending consideration of a general deficiency bill, Mr. German offered an amendment to pay "official stenographers' fees for reporting cases where the defendant in criminal cases were represented by counsel appointed by the State." Whereupon Mr. Robertson of Bell, made the point of order that the amendment was not a deficiency and was provided for in the general appropriation bill.

Sustained. (33nd, p. 1340.)

§ 1318. *An amendment changing the purpose of a bill is not germane.*

The House was considering a bill to amend Article 6394, Revised Statutes, so as to take the Alamo mission property from the joint control of the Governor and the Daughters of the Republic and leave the control of the said Alamo mission property to the Daughters of the Republic of Texas, to be maintained and remodeled upon plans adopted by the said Daughters of the Republic of Texas, with the proviso that no changes or alterations should be made in the Alamo church proper except such as is necessary for its preservation.

Mr. Tillotson et al. proposed to amend the bill by making all changes and alterations subject to the approval of the Governor of the State and the Superintendent of Public Buildings and Grounds. Mr. Mendell et al. offered an amendment providing that should the Daughters of the Republic disagree among themselves, the property should revert to the Superintendent of Public Buildings and Grounds and the Governor. Mr. Ridgell offered an amendment providing that said changes or alterations should be made under and with the consent of the Governor, the Attorney General and the Superintendent of Public Buildings and Grounds.

To these several amendments Mr. Terrell made the point of order that they were not germane to the purposes of the bill.

The Chair (Mr. Kennedy), although stating that he was opposed to the original bill, sustained the point of order, holding that the purpose of the bill was to deliver to the exclusive care and keeping of the Daughters of the Republic the Alamo mission property; that the same was to be under their exclusive management; that the bill was introduced at

their instance, and its proponents were seeking to wrest from the Governor and all other parties any control whatever that they might have in the management or maintenance or alteration of the property, and place it unreservedly in the care and keeping of the Daughters of the Republic of Texas, and that each of the several amendments sought to thwart this purpose and to change it, and the adoption of any of them would defeat the very object of the bill.

Mr. Ridgell appealed from the ruling of the Chair on his amendment, and the House sustained the Chair. (33rd, p. 575-6.)

AMENDMENTS—IN ORDER.

§ 1319. *The friends of a bill have the right to perfect it before a vote is taken on a substitute.*

Mr. Carswell of Wise had offered an amendment to the bill while another amendment was pending.

Mr. Brown of Wharton raised a point of order on consideration of the amendment on the ground that it seeks to amend the original bill (Senate bill No. 14), while an amendment to the bill is pending.

The Chair (Robertson) overruled the point of order on the ground that the friends of a bill have a right to perfect it before a vote is taken on a substitute, which the Cottrell amendment is in fact. (29th, p. 762.)

§ 1320. *An amendment "striking out" always in order.*

To the game law. Mr. Fuller offered an amendment striking out Section 23 and renumbering the sections, and Mr. Dove made the point of order that it was not genuine to the purpose of the bill.

Overruled. (33rd, p. 1606.)

AMENDMENTS—NOT IN ORDER.

§ 1321. *If an amendment is lost or tabled, another one of the same import is not in order on the same reading or stage of the bill.*

Mr. Shropshire offered the following amendment to an amendment:

"Amend by inserting after the word 'service.' in line 30, page 1, the following: 'Or issue to any person other than an employe of said railroad any free pass or permit to ride over said railroad.' Strike out all of Section 2, page 2."

Mr. Wooten raised the point of order that the amendment

was not in order for the reason that a similar amendment had been tabled.

Sustained. (26th, p. 1193.)

§ 1322. *An amendment is not in order if a former amendment containing the same matter has been tabled.*

Mr. Bridgers offered an amendment covering the matter contained in an amendment which had just been tabled.

Mr. Stollenwerck raised the point of order that the amendment was out of order for the reason that it sought to do the same thing that the amendment just tabled sought to do.

The Chair sustained the point of order. (27th, p. 359.)

§ 1323. *An amendment to strike out matter previously inserted in a bill is not in order unless reconsideration is ordered.*

Mr. Bolin offered the following amendment:

"Amend the bill as amended by striking out the word 'lawyer' wherever it appears in the bill."

Mr. Hancock raised a point of order for the reason that the House had just inserted such amendment in the bill and had tabled a motion to reconsider same.

The point of order was sustained. (28th, p. 175.)

§ 1324. *An amendment proposing that the Speaker appoint and pay all the boys who wanted to serve as pages, whether their services were rendered or not, not germane to a resolution authorizing the appointment of five additional pages.*

Mr. Cobbs offered a resolution authorizing the Speaker to appoint five additional pages. (P. 21.)

Mr. Jones offered the following substitute for the resolution:

"Resolved that the Speaker of the House be authorized to appoint any and all boys who want to serve as pages, and that they shall be paid two dollars per day for services, whether rendered or not."

Mr. Grisham raised a point of order on consideration of the substitute, stating that it is indefinite, is in violation of the spirit of the Constitution, and is simply a travesty upon the pending resolution.

The point of order was sustained. (28th, called, p. 23.)

§ 1325. *If the amendment is the same as one just tabled or defeated, it will not be in order.*

Mr. Wilmeth raised the point of order that the amendment

is the same in substance as the committee amendment which the House tabled, and for that reason it should not be considered.

Sustained. (29th, p. 1296.)

§ 1326. *House decides that an amendment providing that a bill shall not go into effect until approved by the voters is unconstitutional and should not be considered.*

The House was considering what is known as the "full crew bill," and Mr. Kennedy offered an amendment providing that the act should not take effect unless it received a majority vote at an election to be held on the fourth Saturday in July, 1913.

Mr. Savage made the point of order that the amendment was not (in order) germane because its adoption would render the bill unconstitutional.

The Speaker declined to pass on the point of order and submitted it to the House and the House sustained the point of order. (33rd, p. 584.)

§ 1327. *An amendment having been defeated, another containing the identical subject matter is not in order at the same stage or reading of a bill.*

During the consideration of a constitutional amendment, Mr. Ridgell proposed an amendment providing for five judges in lieu of seven.

Mr. Wagstaff made the point of order against the amendment on the ground that the House had already voted down an amendment containing the identical subject matter. (33rd, p. 1319.)

APPROPRIATIONS—RULE 21.

§ 1328. *The clear intent and purpose of the rules of the House is that no appropriation shall be made except by bill and that all bills carrying appropriations shall be considered in the Committee of the Whole House, yet these two provisions have been disregarded in numerous instances.*

The House was considering a bill for the appointment of a commission to report on the judiciary system and making an appropriation to carry out the purpose of the resolution.

Mr. Tarver raised the point of order:

First. That the House was not in the "Committee of the Whole."

Second. That no appropriation of money shall be made except by bill.

Third. That the proceedings before the House is a joint resolution carrying an appropriation of $2500, and cited Rule —— of the House, which reads: "All proceedings touching appropriations of money shall be discussed in the Committee of the Whole House, and no appropriations of money shall be made except by bill," and that for the foregoing reasons the joint resolution is not properly before the House.

Overruled. (26th, p. 672.)

§ 1329. *Miscellaneous items may appear in the general appropriation bill.*

Considering the miscellaneous items in the general appropriation bill.

Mr. Tarver raised the point of order that each and every item under the head of "Miscellaneous" in this appropriation bill cannot be considered or adopted, because from the specification given each item, it clearly appears that the relief therein sought can only be obtained by a special act of the Legislature.

Overruled. (26th, p. 1246.)

§ 1330. *Appropriations can be made by means of a resolution.*

Mr. Henderson of Lamar raised the point of order that the resolution is in the nature of legislation in that it seeks to make an appropriation, and that such cannot be done by a resolution.

The Chair held the point of order not well taken. (26th, p. 1456.)

§ 1331. *House may by amendment attach conditions to an appropriation.*

The House was considering the general appropriation bill when Mr. Terrell of Travis offered an amendment to the Treasury Department as follows:

"The appropriation herein made for salary for clerks shall not be paid to more than two clerks who may be related to the State Treasurer in the third degree of consanguinity or affinity."

Mr. Bertram raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The Speaker, ruling on the point of order raised by Mr. Bertram, said:

"The Chair thinks that this amendment is a condition at-

tached to an appropriation, upon failure to comply with which the appropriation will cease to be effective. If this view is correct, the amendment is germane and does not amount to legislation on a different subject from that under consideration, more particularly so since the clerks whose qualifications are in a measure prescribed by this amendment are, it seems, not statutory officers, but merely employes filling places created by the biennial appropriation bill." (29th, called, p. 95.)

§ 1332. *An item properly belonging to a general appropriation bill cannot be placed by amendment in a bill making appropriations for deficiencies in appropriations heretofore made for the support of the State government.*

Pending consideration of a general deficiency bill, Mr. German offered an amendment to pay "official stenographers' fees for reporting cases where the defendant in criminal cases was represented by counsel appointed by the State." Whereupon Mr. Robertson of Bell made the point of order that the amendment was not a deficiency and was provided for in the general appropriation bill.

Sustained. (32nd, p. 1340.)

§ 1333. *An amendment requiring the Attorney General to charge certain persons other than officers for opinions rendered by his department was held germane to an amendment lumping the appropriation for that department.*

The House was considering the section of the general appropriation bill relating to the Attorney General's Department. An amendment pending "lumping" the appropriation for the Attorney General's Department and also containing the suggestion as to how the "lump" sum should be expended, an amendment was offered authorizing the Attorney General to collect from persons other than certain officers $10 for each opinion rendered by his department, which should be deposited with the State Treasurer. Mr. Martin raised the point of order on the ground that it was not germane to the purpose of the amendment, and Mr. Broughton made a further point of order that it was in the nature of legislation on a subject different as to that proposed in the appropriation bill.

Both points of order were overruled. (32nd, 1st called, p. 198.)

BILLS.

(See Rule 18.)

§ 1334. (1) Proposed laws or changes in laws must be incorporated in bills, which shall consist of a title or caption, beginning with the words, "A bill to be entitled 'An Act to,'" and containing a brief statement of the object of the proposed measure and of the bill proper, beginning with the enacting clause, "Be it enacted by the Legislature of the State of Texas," and stating at large the measure proposed; and if the bill proposes to amend an existing law, it shall be accompanied by a brief statement of the proposed change in the existing law.

§ 1335. (2) No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title.

§ 1336. (3) No law shall be revived or amended by reference to its title, but in such case the act revived or the section or sections amended shall be re-enacted and published at length.

§ 1337. (4) Bills shall be introduced in the same manner as resolutions, and with the same order of precedence. Each bill shall be numbered in its regular order; and when bills are called for by the Speaker, first those filed with the Chief Clerk and then those introduced from the floor shall be read first time by caption and referred to the proper committee.

§ 1338. (5) No bill shall be considered or tabled unless it has been first referred to a committee and reported therefrom, and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the Legislature, and no vote shall be taken within twenty-four hours next preceding final adjournment of the Legislature upon the passage of any bill, except it be to correct an error therein.

Congressional Precedents.

§ 1339. The fact that the subject of a pending bill has already been acted on in another form is a matter for the consideration of the House, but does not justify the Speaker in ruling the bill out. (V. 2, 1325.)

§ 1340. A joint resolution is a bill within the meaning of the rules. (V. 4, 3375.)

§ 1341. A House bill relating to the revenue, being returned with a Senate amendment in the nature of a substitute relating to coinage, was in the House referred to the committee having jurisdiction of the subject of the original bill. (V. 4, 4373.)

§ 1342. No bill, petition, memorial or resolution referred to a committee may be brought back into the House on a motion to reconsider.

§ 1343. All bills, petitions, memorials or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

§ 1344. There is a question as to whether or not the rules forbidding a bill to be brought back from a committee on a motion to reconsider applies to a case wherein the House, after considering a bill, commits it. (V. 5, 5648,)

§ 1345. Motions to change the reference of public bills are not open to debate or subject to amendment. (V. 4. 4378.)

§ 1346. Committees may not change the title or subject of bills committed to them, and must set down on a separate paper the amendments which they recommend.

§ 1347. In the House amendments are offered to any part of a bill after it is read the second time. (V. 4, 3392.)

§ 1348. A new bill may be engrafted by way of amendment on the words "be it enacted," etc. (V. 5, 5781.)

§ 1349. The principle of germaneness relates to a proposition by which it is proposed to modify some pending bill, and not to a portion of the bill itself. (V. 5, 6929.)

§ 1350. An amendment inserting an additional section should be germane to the portion of the bill where it is offered. (V. 5, 5822.)

§ 1351. In voting on the engrossment and third reading and passage of a bill, a separate vote on the various propositions of the bill may not be demanded. (V. 5, 6144.)

§ 1352. The question on the engrossment and third read-

ing being decided in the negative, the bill is rejected. (V. 4, 3420.)

§ 1353. A bill having been rejected by the House, a similar but not identical bill on the same subject was afterwards held to be in order. (V. 4, 3384.)

§ 1354. The refusal of the House to consider a bill does not amount to its rejection and does not prevent its being brought before the House again. (V. 5, 4930.)

§ 1355. The fact that a bill has passed the House does not preclude that body from passing another, not identical, bill on the same subject.

§ 1356. The House having been misled in regard to the nature of a bill which it passed, a report on the subject was received as privileged. (V. 4, 3383.)

§ 1357. A Senate bill having been lost in the House, a resolution requesting of the Senate a duplicate copy was entertained as a matter of privilege.

§ 1358. It is a common occurrence for one house to ask of the other the return of a bill, for the correction of errors. (V. 4, 3460.)

§ 1359. A resolution to recall from the Senate a bill alleged to have passed the House improperly was held to be privileged. (V. 4, 3479.)

§ 1360. A bill which had not in fact passed the House having been sent to the Senate by error, a resolution requesting its return was entertained as a matter of privilege. (V. 4, 3478.)

§ 1361. A motion being made to reconsider the vote on a bill which has gone to the Senate, a motion to ask the recall of the bill is privileged. (V. 5, 5669.)

BILLS—ADVERSE REPORT.

§ 1362. *An adverse committee report on a bill does not prevent the consideration of a similar bill.*

The House was considering a bill similar to one adversely reported to the House, when Mr. Bailey raised the point of order that a bill having the same object had been reported adversely by Judiciary Committee No. 2, which was in effect

the defeat of the bill, and that it was not now in order to pass on this bill.

Overruled. (26th, p. 1206.)

Mr. Terrell of McLennan raised the point of order on consideration of the bill, and said:

"I make the point of order that this bill cannot be considered at this time for the reason that House bill No. 30, on the same subject, was adversely reported by the Committee on State Affairs, and thereby 'killed.' The Constitution, Article 3, Section 34, provides that when any measure has been defeated by either branch of the Legislature, no other bill embodying the same question shall be considered at that session. House bill No. 30 was killed by this House, acting through its regularly constituted committee; therefore this Senate bill is out of order and cannot now be considered."

Overruled. (30th, p. 414.)

BILLS—ADVERSE ACTION ON IN THE SENATE.

§ 1363. In the Twenty-sixth Legislature (p. 415) a point of order was made on consideration of a bill in the House because the Senate had considered and defeated a bill containing the same subject matter. The Speaker held the point of order not well taken. A point of order of this kind must be decided on the actual facts of the case. A bill might be similar, even containing, apparently, at least, the same subject matter and yet be so different as not to come within the rules. So this ruling cannot be safely considered as a precedent one way or the other. Each case must stand or fall according to the facts.

BILLS—CONSIDERATION OF.

§ 1364. *Held that a bill cannot be considered on its third reading unless it has been engrossed, the Constitutional rule requiring bills to be read on three several days not having been suspended.*

A House bill was being considered on the third reading and final passage, but which had not been reported engrossed.

Mr. Terrell of Bexar raised a point of order on further consideration of the bill at this time on the ground that the bill had not been reported engrossed.

Sustained. (32nd, p. 365.)

§ 1365. *The rule giving bills on third reading precedence*

on Tuesdays does not prohibit their consideration on other days.

Mr. Gilmore made the point of order that consideration of House bill No. 32 is not in order today for the reason that Section 6 of Rule 18 provides that Tuesday of each week shall be devoted to the consideration of House bills on their third reading and that it is not in order to consider House bills on their third reading on any other day except by a suspension of the rules."

Overruled. (32nd, p. 365.)

§ 1366. *After the House had appointed a committee to notify the Senate and the Governor that its labors had been completed and that it was ready to adjourn, the consideration of a free conference committee report was not in order.*

Pending consideration of a conference report, Mr. Maddox raised a point of order on further consideration of the report on the ground that the House has appointed committees to notify the Senate and Governor that its labors had been completed and it was ready to adiourn.

Sustained. (32nd, p. 1401.)

§ 1367. *House cannot act on a resolution or a bill which has been transmitted to the Senate without recalling the same.*

Question then recurring on the motion of Mr. Tarver to reconsider the vote by which House Concurrent Resolution No. 20 was adopted, Mr. Cole raised the point of order that the resolution being a concurrent resolution and having been sent to the Senate and having been already adopted by that body, and the House having been duly informed of said action, as is shown by the Journal, it would be a discourtesy to the Senate for the House to entertain a motion to reconsider without first informing the Senate that such a motion is pending in the House, and returning the same to the Senate with request that action thereon be reconsidered and the resolution returned to the House.

Sustained. (26th, p. 365.)

BILLS—CONSTITUTIONALITY OF.

§ 1368. *Often during the consideration of a measure, the constitutionality of a bill has been raised, but the invariable rule seems to have been for the presiding officer to pass it up to the House, one Speaker remarking that it placed too much responsibility in the hands of the Speaker.*

The Speaker laid before the House, on its third reading and final passage, House bill No. 46, the tenpin alley bill.

Mr. Childs raised the point of order that the bill was not properly before the House, for the reason that it was not framed in accordance with the Constitution, inasmuch as the bill sought to amend a "subdivision" of an act of the Twenty-fifth Legislature, and that the Constitution did not recognize subdivisions, but provided that the section amended must be re-enacted in full, and moved to recommit the bill to the Committee on Revenue and Taxation.

The Speaker in ruling stated that he would not pass upon the constitutionality of the bill, but would leave that for the House to do, and would submit the motion to recommit.

The House recommitted the bill, thus sustaining the point of order. (26th, p. 326.)

§ 1369. *Bill relating to the assessment of property held not to violate the constitutional provision requiring revenue bills to originate in the House.*

Senate bill No. 4, being what is known as the "full rendition bill," was before the House.

Mr. Lively raised a point of order on consideration of the bill on the ground that it is a revenue-raising bill, and that it should have originated in the House.

Overruled. (30th, called, p. 150.)

BILLS—GENERAL.

§ 1370. *A House bill granting to the city of Austin a block of land within said city for public free school purposes held to be a general bill.*

A bill for the purpose named was pending, when Mr. Henderson of Lamar raised the point of order that the bill was not a local bill, but general in its nature, and that it is not proper to consider it on local bill day.

The Speaker held the point of order not well taken. (26th, p. 908.)

§ 1371. *Senate bill granting Collis P. Huntington the right to use certain streets, wharves and alleys of Galveston held to be a general bill.*

Mr. Garner raised the point of order that Senate bill No. 228 is a local bill and that the proper notice required by the Constitution had not been given.

Overruled. (26th, p. 942.)

And Mr. Wooten raised the point of order that this bill is a local bill, as recognized by its authors in giving notice by advertisement, and it effects every locality through which any and all of Collis P. Huntington's railroads pass. Therefore it ought to have been advertised in every locality affected by the proposed law, which had not been done. The notice has only been published in Galveston, whereas it ought to have been advertised in all the towns and counties whose railroad connections are affected by the Huntington wharves.

Overruled. (26th, p. 942.)

Mr. Garner raised the further point of order that Senate bill No. 228 is a local bill, and should be considered on Saturday, which is local bill day.

Overruled. (26th, p. 942.)

§ 1372. *Bills to validate titles in Carson, Dallam and Hutchinson counties held to be a general bill.*

On local bill day the House was considering House bill No. 396, "An Act to validate titles to lands located and patented in Carson, Dallam and Hutchinson counties on July 4, 1879."

Mr. McDowell raised the point of order that the bill was not a local bill and that it was not in order to consider same today.

Sustained. (26th, p. 1157.)

§ 1373. *Bill extending time for payment on school lands to citizens of Fort Bend, Waller and Harris counties held to be a general bill.*

House bill extending time for the payment of principal and interest on certain school lands for five years to citizens of Fort Bend, Waller and Harris counties, was placed before the House on local bill day.

Mr. Terrel of Cherokee raised the point of order that it is not a local bill.

Sustained. (27th, p. 844.)

§ 1374. *Bill relating to Confederate Home at Austin is a general bill.*

Bill relating to the government of the Confederate Home located at Austin was read on local bill day, whereupon Mr. Seabury raised the point of order that the bill was not a local bill.

The point of order was sustained, and the bill went back to the Speaker's table. (27th, p. 1032.)

§ 1375. *Bill relating to the sale of public land on islands not local.*

A bill to be entitled "An Act to provide for the purchase of public lands in quantities of five acres or less situated on islands by actual settlers who have settled on and placed valuable improvements thereon in good faith, or to their heirs or legal representatives, prior to the first day of January, 1895, and prescribing the price, terms and manner and time of such purchase," was held on a point of order by Mr. Bean not to be a local bill. (27th, p. 1162.)

§ 1376. *An act to amend the general game (fish) law is not a local bill.*

Pending House bill No. 100, to amend the General Laws of the State of Texas, relating to the fish law, and to exempt certain counties from the provisions of said act.

Mr. Seabury raised the point of order on consideration of the bill, stating that the bill was general in its application and not local, and that it was not in order to consider it today unless by unanimous consent.

Sustained. (28th, p. 156.)

§ 1377. *Bill to create a new county held not to be a local bill.*

During the consideration of a bill to create the county of Ross out of parts of Comanche, Brown, Coleman, Eastland and Callahan counties, Mr. Terrell of McLennan raised the point of order on the consideration of the bill that it is not a local bill and that this night's session was set apart for the consideration of local bills only.

Sustained. (29th, p. 918.)

Mr. Brelsford, rising to a point of order, requested of the Speaker that he lay before the House, as a local bill, on its second reading and passage to engrossment, House bill No. 260, a bill to be entitled "An Act to create the county of Ross out of parts of Eastland, Comanche, Brown, Coleman and Callahan counties."

The Speaker (Mr. Robertson of Bell) held that the bill was not a local bill and could not be taken up except by unanimous consent.

Mr. Brelsford appealed from the ruling of the Chair.

The House sustained the ruling of the Chair. (29th, p. 1045.)

Mr. Canales raised a point of order that this is a local bill (1) because it seeks to locate a county seat; (2) because it

only affects certain territory, and under Sections 56 and 57 of Article 3 of the Constitution it requires it to be advertised thirty days, and evidence of such fact to be exhibited to the Legislature, which is not done in this case, and therefore the bill is not properly before the House.

The Chair (Mr. O'Bryan) overruled the point of order.

Mr. Robertson of Bell raised a point of order that it is not a local bill, for the reason that it is sought by the Legislature to create a county out of four different counties; it is general in its nature; that any measure that would come up in the interest of this county, if organized, after it was created, would be a local measure.

The Chair (Mr. O'Bryan) sustained the point of order.

Mr. Canales appealed from the ruling of the Chair on the point of order raised by Mr. Robertson of Bell.

The House sustained the point of order. (31st, p. 492.)

§ 1378. *Bill creating a district court out of parts of two or more counties not local.*

Pending, on local bill day, House bill, the nature of which point of order explains.

Mr. Bowles raised a point of order on further consideration of the bill, on the ground that it is not a local bill, for the reason that it creates another half of a district court for Dallas county and another half of a district court for Grayson county, and makes changes also in the time of the meeting of the district court in Collin county.

Sustained. (31st, p. 602.)

§ 1379. *Fee bill applying to counties of more than* 80,000 *not local.*

The House was considering a fee bill applying to counties having a population of 80,000 or more.

Mr. Adams raised a point of order on consideration of the amendment on the ground that the bill is a local bill and notice thereof must be advertised before its passage by the Legislature.

Overruled. (31st, p. 837.)

§ 1380. *A bill to amend an act to apportion the State in congressional districts is not a local bill.*

The House was considering a bill of that character on local bill day, when Mr. Cable raised a point of order on further consideration of the bill at this time on the ground that the bill is not a local bill.

Sustained. (31st, p. 911.)

§ 1381. *The House may by unanimous consent consider a general bill on local bill day.*

The House was considering a general bill.

Mr. Fitzhugh raised a point of order on consideration of the bill on the ground that tonight was set apart under the rules of the House for the consideration of local bills only.

The Chair overruled the point of order, stating that the bill was taken up by unanimous consent of the House. (31st, p. 912.)

§ 1382. *Bills relating to judicial districts general.*

The House was considering a bill changing certain counties from the Twenty-fourth to the Thirty-sixth Judicial District.

Mr. Reedy raised a point of order on consideration of the bill at this time on the ground that the bill was not a local bill.

Sustained. (31st, p. 917.)

§ 1383. *A bill reorganizing one or more judicial districts is not a local bill.*

The House was considering a bill reorganizing the Fortieth and Sixty-second Judicial Districts on local bill day, whereupon Mr. Cox of Rockwall raised the point of order that the bill was not a local bill and could not be considered at this time, and the Speaker sustained the point of order. (32nd, p. 1038.)

§ 1384. *A general bill cannot by amendment be changed to a local bill.*

The House, considering a bill to provide means of securing fair elections and true returns thereof whenever any election is held when any proposed amendment or amendments to the Constitution of this State shall be voted upon, Mr. Smith of Atascosa offered an amendment providing that the provisions of the act should apply only to the Fourth Senatorial District, which amendment, upon the point of order raised by Mr. Schluter, was held not germane to the purpose of the bill. (32nd, p. 1153.)

BILLS—LOCAL.

§ 1385. *Local bills can be considered only on the days designated by the rules.*

Mr. Lillard raised the point that under the rule it was not in order to consider the bill (Austin city charter bill) today, as it was a local bill strictly, and that said rule provided that

such bills should be considered on Saturday of each week until disposed of.

Sustained. (26th, p. 402.)

§ 1386. *Bill to donate to the road and bridge fund of Brazoria county the State taxes collected from occupations and property in said county, held to be a local bill.*

A bill to be entitled "An Act to aid Brazoria county, Texas, by supplementing the road and bridge fund of said county by donating and granting to it the taxes collected upon property and persons in said county for a period of ten years, and providing for a proper transfer to said fund," was held to be a local bill. (27th, p. 1163.)

§ 1387. *A bill establishing a civil court for Bexar county held to be a local bill.*

Mr. Reedy raised the further point of order that the original bill was a general bill instead of a local bill.

Overruled. (31st, p. 352.)

BILLS—PRINTING OF.

§ 1388. It has been the practice to print or not print bills in the House on a simple motion if approved by a majority of those voting. This is all right so far as purely local bills are concerned, but it is a pernicious practice when applied to general bills. The truth is, so far as not printing general bills is concerned, it is contrary to public policy, and all motions to not print a general bill should be ruled out of order, because the rule, as will be seen, is plain and imperative. It cannot be suspended except by a two-thirds vote, and that motion is only in order on suspension days. For a discussion of this particular point, see "Rules. Suspension Of," this volume. The rule as to printing bills is as follows:

All bills, when reported favorably by a committee, shall be printed and a copy laid on the desk of each member before the bill is acted on by the House. All other bills, resolutions, reports, memorials and petitions shall be printed on the order of the House.

§ 1389. *All bills, when reported favorably by a committee, shall be printed and a copy laid on the desk of each member before the bill is acted on by the House.* (Rule 18, Section 7.)

Mr. Wooten raised the further point of order that there were several printed bills on the desks of the members, all numbered Senate bill No. 228, that they were dissimilar, and

that the bill is not before the House properly, according to the procedure prescribed by the Constitution and the rules of the House.

Overruled. (26th, p. 942.)

§ 1390. *No bill can be considered unless it has been printed and laid upon the desks of the members, unless the House has specifically ordered otherwise.*

Mr. Wilmeth raised the point of order that the printed bill had not been laid on the desks of members, and moved that the Sergeant-at-Arms be directed at once to place upon the desks of the members all the printed bills now in his possession.

The motion prevailed, and the Sergeant-at-Arms was directed to comply with the order. (30th, called, p. 40.)

§ 1391. *No bill can be considered unless it has been printed and laid on the desks of the members.*

Mr. Gilmore raised a point of order on consideration of the bill at this time, stating that it is not in order, for the reason that the bill had not been printed and laid on the desks of the members, as required under the rules of the House.

The Speaker sustained the point of order, stating that while the calendar shows that the bill had been printed, it had not been laid on the desks of the members. (31st, p. 234.)

BILLS—READING OF.

§ 1392. The first reading of a bill is by caption. At this reading the only thing in order is the reference of the bill to the proper committee.

§ 1393. After the bill has been reported from a committee, it is in order, after taking it up, for the bill to be read in full, this being the second reading of the bill, and no motion to suspend the reading of the bill is in order if any member demands it. (See Section 14, Rule 18.) A bill can only be acted upon without being read by unanimous consent.

§ 1394. Where a bill has been considered in a Committee of the Whole House, it is not in order to demand a full reading of the bill again when taken up for further action in the House (see V. 4, 3409-3410), but when a bill is taken up in the Committee of the Whole House its reading in full may be demanded, although it has just been read in the House. (See V. 4, 4738.)

§ 1395. The second reading of a bill is in full, the third reading by title unless some member demands a reading in full, and this reading has sometimes been suspended in the House, but there does not seem to be any authority for it except it be by a four-fifths vote.

§ 1396. Unless the demand for the reading in full of an engrossed copy of a bill is made immediately after it has been passed to be engrossed, it is not in order, but it is in order to demand a reading in full of the actual engrossed copy of a bill and, although the previous question be ordered, the bill, on demand, is laid aside until engrossed. (See V. 4, 3395-3399.)

§ 1397. A bill having been read a third time by title and the yeas and nays having been demanded, it is too late to get a reading in full of the engrossed copy. (See V. 4, 3402.)

§ 1398. *Pending reading of a bill, no motion can be entertained.*

Mr. Phillips of Lampasas raised the point of order that it was not proper to entertain a motion while the reading of a bill is in progress.

Mr. Shelburne, in the chair, sustained the point of order.

Mr. Teagle appealed and the House sustained the Chair. (27th, p. 728.)

§ 1399. *No bill can be read more than once on the same day unles it contains the emergency clause.*

Mr. Gaines raised a point of order on further consideration of House bill No. 58 at this time, stating that it is not in order to place the bill on its third reading today, for the reason that the bill does not declare an emergency.

Sustained. (31st, p. 338.)

§ 1400. *The point of order having been made that a bill had not been read, the Speaker directed the Clerk to read the bill.*

Mr. Cox raised a point of order on further consideration of the bill, on the ground that it had not been read second time.

The Chair overruled the point of order, and stated that if the gentleman from Rockwall (Mr. Cox) desired the bill read again he would direct the Clerk to read the bill.

The Clerk then read the bill. (31st, p. 445.)

BILLS—RECALLING FROM THE GOVERNOR.

§ 1401. The practice of recalling bills from the Governor for the purpose of amending or correcting has grown to be an established rule of the House. When it is necessary to recall a bill from the Governor, the House, if it be a House bill, should pass a resolution something like this:

"Resolved by the House, the Senate concurring, That the Governor be and is hereby requested to return to the House of Representatives House bill No. 22, relating to the rights of married women, for the purpose of amending and correcting."

This resolution having been adopted by the Senate should be enrolled and properly signed by both presiding officers and officially communicated to the Governor by the Clerk of the House, whereupon the Governor should return the bill to the House.

§ 1402. When the bill has been received in the House from the Governor, the following resolution should be adopted:

"Resolved by the House, the Senate concurring, That the action of the Speaker and the President of the Senate in signing the enrolled House bill No. 22, relating to the rights of married women, be rescinded and that the Speaker of the House and the President of the Senate erase their names from the enrolled bill and that the action of both houses in adopting the free conference report on said House bill No. 22 be rescinded and that the bill be recommitted to the conference committee for final consideration of it, and that the said conference committee is hereby revived."

The Senate having agreed to this resolution, the Speaker will cancel his signature and the bill will then be sent to the Senate, where the President will also cancel his signature.

§ 1403. After these formalities have been complied with, the bill is then properly with the conference committee, who will proceed to reconsider it, and when it has agreed to a report, the report will be made as if the bill had never been sent to the Governor, and if agreed to by both houses, the bill will be re-enrolled, re-signed by the presiding officers and again presented to the Governor.

§ 1404. If it is decided to recall the bill to correct an error in the enrollment, a concurrent resolution authorizing the correction of the error in the enrollment rather than have it referred to a committee will be in order. This procedure is

authorized by the national House of Representatives and is the only correct way of handling the matter.

§ 1405. In a previous edition of the House (Texas) annotations, this question was discussed as follows:

There is nothing in the Constitution or in the rules of the House providing for the recall of a bill from the Governor after it has been sent to him for his approval. In fact, a strict construction of the Constitution, as interpreted by this writer, would prohibit such a procedure. However, relying upon the practice in Congress, it has been the rule to recall for correction, modification and, in some instances, entire changes in bills that have been sent to the Governor. In Congress bills sent to the President, but not yet signed by him, are sometimes recalled by concurrent resolution of the two houses, and there have been instances wherein the President returned a bill already signed by him in order that an error in the enrollment might be corrected. A bill wrongly enrolled was recalled from the President, who erased his signature, and in the House the bill was recommitted to the Committee on Enrolled Bills for correct enrollment. It seems that when this matter was presented the question was raised as to the constitutional power of the House to take this method, and the Speaker left it to the House to determine. The final conclusion of the matter was that the two houses of Congress could call only for bills which had not been signed by the President or which are supposed not to be signed by him.

Among the instances where bills have been recolled by concurrent resolution was one recalled on motion of Mr. Bailey of Texas, who, by unanimous consent, presented, and the House agreed to, a resolution requesting the President to return to the House a Senate bill for correction of a verbal error. After the bill was returned, it was referred to a committee for amendments. There are many other instances recited in the precedents of the House (Congress) where bills have been recalled after having been sent to the President, and there are instances where the Vice President and the Speaker of the House have erased their names from bills after having been signed by them; therefore it seems that the action of the Legislature in recalling bills from the Governor is justified by the precedents above referred to, and our rules being silent as to those matters, the rule which obtains in Congress governs. But in Congress the propriety of this procedure has been seriously questioned. And the procedure in the Legislature of this State was condemned by some of the best law-

yers in the House, one of these being Mr. Jenkins, now a member of one of the Civil Courts of Appeals.

The most notable instances in the recent legislative history of this State of bills having been recalled from the Governor are those found in the proceedings of the Thirtieth Legislature.

Senate bill No. 26, creating a Board of Medical Examiners, was passed by both houses and presented to the Governor for his signature on the 18th day of March, 1907. On the 26th day of March, the House and Senate adopted a concurrent resolution requesting the Governor to return the bill for correction and amendment, and the Governor on that date returned to the Senate said bill. On the 2nd day of April, the House passed Senate concurrent resolution rescinding the action of the Lieutenant Governor and the Speaker of the House on signing of said bill and they were authorized and directed to erase their signatures from the enrolled bill. The House recalled the bill from the Senate and the vote on the passage of the bill was rescinded and the bill was returned to the calendar. It was again read second time, amended, passed to its third reading, read third time and finally passed.

Pending in the House a Senate concurrent resolution rescinding the action of the Lieutenant Governor and the Speaker in signing Senate bill No. 26, authorizing and directing said officers to erase their signatures from the enrolled bills.

Mr. Jenkins raised a point of order as follows:

"I make the following points of order against the consideration of Senate concurrent resolution rescinding the action of the Senate and the House of Representatives and authorizing said officers to erase their signatures from said bill:

"Said Senate bill No. 26, having finally passed the Senate and the House, and having been signed by the Speaker of the House and the President of the Senate and sent to the Governor, and by him received on March 28, 1907, and there being no constitutional power in the Legislature to recall said bill from the Governor, and more than ten days having elapsed since said bill was received by the Governor, and he not having returned said bill to the Senate, in which it originated, within ten days after having received said bill, the same has now become law and cannot be amended by this Legislature except by a new bill on the same subject.

"The Senate having passed said bill and sent it to the House, the same became the property of the House and could

not be legally returned to the Senate except by the House for concurrence in amendments by the House. The House having passed no amendment to said bill, said resolution shows upon its face that it is improperly in the custody of the Senate, and this House has no authority to pass said concurrent resolution.

"If said bill could be recalled from the Governor at all, it could be only by resolution of the House, and not by joint resolution, and more than ten days having elapsed since said bill was delivered to the Governor, this House has lost all control over said bill."

The Speaker held the point of order not well taken, and stated that, as the points raised by the gentleman from Brown (Mr. Jenkins) involved a question of constitutionality in the procedure, it was rather a question for the House to decide when the bill is before the House for amendment than a point of order to be passed upon by the Chair.

Mr. Cobbs raised a further point of order on consideration of the resolution on the ground that the bill having remained in the custody of the Governor, the time required by the Constitution, and not being by him returned with objections to the legislative body in which it originated, it has become a law; that the House has no jurisdiction over it and the bill should be at once returned to the Senate and by that body returned to the Governor.

The Chair held the point of order not well taken.

Mr. Jenkins raised a further point of order on consideration of the resolution, stating that the resolution, or the bill, were sufficient evidence that the bill is not properly in the custody of the House.

Overruled. (30th, p. 1212.)

House was considering Senate bill No. 26.

Mr. McGregor raised a point of order against further consideration of this bill and said:

"I make the point of order against the further consideration of Senate bill No. 26 that the House had no power to recall the same from the Governor, and that in law it is yet in the custody of the Governor, and he having had it more than ten days it is now a law by virtue of Article 4 of Section 16 of the State Constitution." (See Wolf vs. McCaul, 76 Va., 876.)

The Chair held the point of order not well taken. (30th, p. 1248.)

Mr. Jenkins raised a point of order on further consider-

ation of the amendments on the ground that the resolution recalling the bill stated that the bill was recalled for the purpose of "correction and amendment," and that being the object for which the bill was recalled, the bill is now, or should be, on its final passage, instead of its passage to a third reading, and that it should require a two-thirds majority to amend the bill.

Overruled.

Mr. Love of Williamson then raised a point of order on further consideration of the amendments on the ground that the second reading of the bill is void, and that the House had no authority to place the bill back on a second reading.

Overruled. (30th, p. 1251.)

The House resumed consideration of the pending business, same being Senate bill No. 26, regulating the practice of medicine, on its final passage.

Mr. McGregor raised a point of order on further consideration of the bill and filed the following objections, to be printed in the Journal, in which he was joined by Mr. Jenkins:

"Specific objections to the further consideration of Senate bill No. 26 and a motion to strike it from the calendar of the House.

"I object to the further consideration of Senate bill No. 26, and raise in support of said objections the following points of order:

"This bill originated in the Senate. It passed that body finally on the —— day of March, came to the House, was committed, reported favorably, and on the —— day of March after a free discussion was passed finally by the House. And that on said —— day of March, immediately after the passage of the said bill by said vote, a motion to reconsider said vote was made, and a motion was made to table said motion, which motion prevailed and the motion to reconsider was tabled. That thereafter the said bill was enrolled and, in the presence of the House, was signed by the Speaker, and on the —— day of March, 1907, and after being so signed by the Speaker and also by the Lieutenant Governor, the said bill was transmitted and delivered to the Governor of the State of Texas pursuant to the constitutional provisions for the delivery of bills to the Governor. And that the said Governor held said bill in his possession for about eight days, and that he neither signed said bill nor refused to sign the same, nor did he return it without his signature to the House from

whence it originated, together with his written objections, if any, were not recorded, and the vote taken thereon as prescribed shall be done by said Section 14 of Article 4 of the Constitution of the State of Texas, and that the Governor had no authority in law to surrender the said bill and could not surrender the same, and that under the law he now has the legal custody of said bill, and that having had the legal custody of same for more than ten days after it had been delivered to him, it has become a law by virtue of that portion of the constitutional provision referred to, and is now a law of the State of Texas, and this House can not alter it or amend the same except by a new bill introduced for that purpose.

"This House had no authority to recall said bill, as it had lost control of same, and the Governor cannot return said bill except pursuant to Section 14 of Article 4 of the Constitution; and a further point of order that the time for making the motion to reconsider the original bill had expired when the resolution to that end was introduced in the House. And that because of these facts, all of which are shown by the record, this bill is wrongfully and illegally upon the calendar of this House, and should be stricken therefrom. I therefore object, and move that the same be stricken from the calendar of the House. And in support of this motion, I respectfully submit that the constitutional provisions referred to are identical with the constitutional provisions of the State of Virginia, which are construed in the case directly in point by the Supreme Court of Virginia, towit, the case of Wolfe vs. McCaul, 76 Va., 876, which case, with the other therein cited, is here referred to in support of this motion."

MCGREGOR.

I concur in the above.

JENKINS.

The Chair overruled the points of order and stated that it was a matter for the House to pass upon. (30th, pp. 1291-1292.)

In the Called Session of the Thirtieth Legislature, the Governor, by special message, requested the Legislature to recall House bill No. 2, relating to the collection of fees for officers of certain State offices. The bill was returned to the House and the House resolved that the same be retransmitted to the Senate for correction. The Senate amended the bill and returned it to the House, whereupon the House concurred

in Senate amendments, the bill was again enrolled, signed and presented to the Governor.

(Note.—We observe that so far as the record goes, the formality of having the Lieutenant Governor and the Speaker of the House to erase their signatures was not had.—Editor.)

§ 1406. *There must be good and valid reasons for withdrawing bills from the Governor.*

A resolution was offered in the House asking for the recall if a House bill for the reason that the people of San Antonio vigorously protested against the concentration of tuberculous insane in that city, and because the bill was contrary to the evident wish of the administration and the people that the unfortunate victims of tuberculosis be segregated so that they can be suitably cared for without danger to a populous community.

Mr. Cox raised a point of order on consideration of the resolution on the ground that the resolution does not state sufficient reasons for the recall of the bill.

Sustained. (31st, p. 1147.)

BILLS—RECALLING FROM THE SENATE.

§ 1407. If a motion to reconsider the vote by which a bill was finally passed by the House prevails or is pending, it is in order to recall a bill sent to the Senate. But the motion cannot be made except on the day the final vote was taken or on the next day before the order of the day is taken up. There is no rule or authority for recalling a bill simply because a majority of the House, or even all of the members of the House, may have changed their minds about the merits of the bill. If the House can rescind the vote by which a bill was passed, there being no motion to reconsider, it certainly can rescind a vote defeating a bill. And the House (33rd, p. 891) emphatically declared a motion of this latter kind out of order after a full discussion of the question. We, however, are not unmindful that there may be precedents for the opposite view, but they are not correct and ought not to be perpetuated. If we would preserve the integrity of the proceedings of any legislative body, the rules must be adhered to. In a letter to the editor, Hon. Charles R. Crisp, who served as parliamentarian under Speaker Crisp and under Speaker Champ Clark, and who is now a member of Congress, says:

"It is not in order to recall a bill gone to the Senate if a

motion to reconsider was not entered within twenty-four hours after the bill passed."

§ 1408. Of course, the motion to recall a bill could be entertained by "unanimous" consent as can any other motion that is not expressly prohibited from being entertained.

§ 1409. The precedents in Congress show that where bills have been recalled from the Senate the motions were entertained by unanimous consent or motions to reconsider were made.

§ 1410. A motion to recall a bill except for some gross error is not generally considered a privileged question.

BILLS—RESCINDING VOTE DEFEATING THEM.

§1411. *Held out of order resolution to rescind vote by which enacting clause was stricken out.*

Mr. Robertson of Travis offered the following resolution:

Be it resolved, That the action of the House taken on January 24, 1911, in adopting the amendment striking out the enacting clause of House bill No. 41, relating to the fixing of salaries of judges of the courts of this State, be and the same is hereby rescinded.

The Speaker (Mr. Rayburn) held the resolution to be out of order, from which ruling Mr. Robertson of Travis appealed.

The Chair was sustained by a vote of 81 to 19. (32nd., p. 1075.)

§ 1412. *A bill having been defeated, and motion to reconsider the vote by which it was defeated being laid on the table, a motion to rescind the vote by which the House tabled the motion to reconsider is not in order.*

Mr. Savage moved to rescind the vote by which the House, on February 10, tabled the motion to reconsider the vote by which House bill No. 4, known as the "full crew bill," was on that day lost.

Mr. Kennedy raised a point of order that the motion to rescind is out of order; that such a motion, if carried, would abrogate the rules of the House, which provide for the reconsideration of all matters adopted by the House, and that the motion must be made by a member of the majority or prevailing side, and must be made on the same or next sitting day before the order for the day is taken up, and that one day's notice must be given before the motion can be called

up and disposed of. The rules of the House further provide that where a motion to table prevails that motion cannot be reconsidered. Immediately after House bill No. 4 was defeated on engrossment, a motion to reconsider that vote was made, and the motion to reconsider was tabled. The motion to rescind is but another method of reconsideration, and is now made by a gentleman who voted with the losing side and made several days after the House defeated the bill which he now proposes to revive. The adoption of his motion would establish a dangerous precedent. It would mean an interminable conflict over bills that, under the rules, have been killed.

In sustaining the point of order raised by the gentleman from Kerr, Mr. Kennedy, the Speaker gave the following reasons:

Rule 14, Section 1, provides as follows: "When a motion has been made and carried or lost, or an amendment, resolution or bill voted upon, it shall be in order for any member of the prevailing side to move for a reconsideration thereof, on the same day or the next sitting day, before the order of the day is taken up."

Rule 12, Section 7, provides as follows: "A motion to lay upon the table, if carried, shall have the effect of killing the bill, resolution or other immediate proposition tabled."

Article 3, Section 34, of the Constitution provides: "After a bill has been considered and defeated by either house of the Legislature, no bill containing the same substance shall be passed into law during the same session."

House bill No. 4 was considered fully by the House, and after lengthy debate was defeated; a motion to reconsider and table was made, which motion carried, and, in the opinion of the Chair, the motion to table the motion to reconsider killed the bill. It is just as important to the House to be able to kill a bill as it is to pass it. If a motion to rescind could be made, the motion to reconsider and table would be without value, and if one motion to rescind could be made, such a motion could be made every day in the session and thus waste the time and thwart the will of the House deliberately expressed when the bill was defeated.

The Speaker is aware of the action of the House in the Twenty-sixth, Twenty-eighth and Twenty-ninth Legislatures and also familiar with the rulings of the Thirty-second Legislature dealing with the question of rescinding, and he is unhesitatingly of the opinion that the rulings made by Speaker

Rayburn in the Thirty-second and by the present Speaker, who was in the chair during that same session, were correct.

If a motion to rescind could be made on the defeat of any bill, it could also be made after the passage of a bill, and in this way defeat the expressed will of the House. A motion to rescind must be based on the proposition that the only way to defeat a bill is by final adjournment, and if that be true the provisions of Section 34 of Article 3 of the Constitution would be meaningless.

For the above reasons the Speaker sustains the point of order. (33rd, p. 891.)

BILLS—SUBSTITUTES.

§ 1413. House bill No. 298 was read.

Mr. Henderson of Lamar raised the point of order that the bill was not properly before the House, for the reason that only the substitute reported by the committee had been printed and laid on the desks of the members, and that the original bill should have been printed, together with the substitute.

Overruled.

Mr. Henderson appealed, but later withdrew it, thus acquiescing in the ruling of the Chair. (26th, p. 626.)

Mr. Childs raised the point of order that Senate bill No. 39 is not properly before the House, as the committee to whom the bill was referred exceeded its authority when it substituted a committee bill for the Senate bill. The committee had the right to amend the Senate bill or kill it, but it could not substitute a new bill for a Senate bill and bring it into the House and call it Senate bill by Senator Wayland, as it would then become an original bill, and not an amended bill (Rules United States House of Representatives, "Reed's Rules," Section 77, page 62), and would in fact be a House bill and not a Senate bill. It could not stand as a House bill, not having been introduced in the House, and could not be a Senate bill, as the committee left the Senate bill in the committee room by their report, and if they could bring in an original bill in this way it would have to be treated as a House bill, and undergo a three day's reading in the Senate if the House should pass it and return it to the Senate for their action. The committee by its action practically killed the Senate bill by making a substitute bill, and the only course is to recommit the bill, otherwise it is practically

killed, since all bills must be referred to a committee and reported before they can come before either house. (State Constitution.) Otherwise the constitutional rule that bills should be read on three several days would be violated. It might be held otherwise if either house was considering its own bills and not those of the other branch of the Legislature.

Overruled. (26th, p. 683.)

(Note.—Under the rule prevailing in the House now, the contention of Mr. Childs was correct. In other words, there are now no so-called substitute bills; they are treated as amendments only.—Editor.)

The House was considering substitute House bills Nos. 10 and 12, which was a substitute gotten up by a majority of the committee for House bills Nos. 10 and 12. The minority of the committee recommended that House bill No. 10, with certain amendments, do pass.

Mr. Brelsford moved that the substitute reported by a majority of the committee be adopted.

Mr. Murray of Wilson raised a point of order on consideration of the substitute, stating that it had no standing in the House, not having been introduced in the House, read first time, referred to a committee and reported back to the House as required by Section 37 of Article 3 of the State Constitution.

Overruled. (28th, p. 188.)

(Note.—The practice in the House now is to offer so-called substitutes as amendments; that is, all but the enacting clause is stricken from the bill and the proposed substitute is offered as an amendment.—Editor.)

Pending substitute House bills Nos. 4, 5 and 39, Mr. Murray of Wilson raised a point of order on further consideration of the bill, stating that the State Constitution, Article III, Section 32, provided that "no bill shall have the force of law until it has been read on three several days in each House, and free discussion allowed thereon," and that this bill, having been brought in by the committee, had not taken the course designed by the Constitution, and that it should be read first time, referred to a committee and reported back to the House before it could be properly considered.

Overruled.

Mr. Murray of Wilson appealed from the ruling of the Chair. The Chair was sustained. (28th, p. 443.)

§ 1414. *Committee may propose an entire substitute for a bill without having said substitute reintroduced.*

Mr. Barcus raised a point of order on consideration of House bill No. 64, on the ground that it had been referred to a special committee, that said special committee had prepared a substitute and reported same to the House, which had been printed, that said substitute had been offered as an amendment to the bill when, in fact, it should have been introduced in the House by a member, put on its first reading, referred to a standing committee, entered on the calendar and have taken the regular course of a bill de novo.

Overruled. (29th, p. 1067.)

BILLS—VETOED.

§ 1415. Section 14, Article 4, of the Constitution says:

"Every bill which shall have passed both houses of the Legislature shall be presented to the Governor for his approval. If he approve, he shall sign it; but if he disapprove it, he shall return it, with his objection, to the house in which it originated, which house shall enter the objection at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other House, by which likewise it shall be reconsidered; and if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house, respectively."

In the opinion of the writer, the plain provisions of the Constitution have not always been adhered to in the consideration of vetoed bills returned to the Legislature by the Governor. The rule in Congress, however, seems to obtain, as the rules of the House are silent on that point. In Congress it is the usual, but not invariable, rule that a bill returned shall be read and considered at once. It has been held that the constitutional mandaate that the House or Senate, as the case may be, shall proceed to the reconsideration does not preclude a motion to postpone to a day certain. A vetoed bill is a privileged matter and may be taken from the table at any time, though it was laid on the table. It has been held that the motion to refer a vetoed bill would be in order. There are instances both in Congress and in the Texas Legislature where vetoed bills have not only been referred to the committees, but where new bills have been presented in lieu

of those vetoed. Questions touching this method of procedure were fully threshed out in the Twenty-sixth Legislature.

Several railroad consolidation bills were passed and presented to the Governor, who vetoed three of them. These bills were returned to the Senate, from which they originated. New bills in lieu of each of them were offered and adopted.

Senate bill No. 154, authorizing the M. K. & T. Ry. Co. of Texas to purchase and acquire certain other railroad lines was vetoed by the Governor and returned to the Senate, which passed the bill over the Governor's veto, and the bill was transmitted to the House, where Mr. Scurry moved to refer the bill, with accompanying veto, to the Committee on Internal Improvements.

Mr. Pitts raised the point of order that it is not proper to refer a vetoed bill to a committee, since the bill has already been referred to a committee, reported favorably, passed by both houses, sent to the Governor and by him returned with his objections thereon, and that the pending question should be:

Shall the bill pass, notwithstanding the objections of the Governor?

The Speaker held the point of order not well taken. (26th, p. 1014.)

Mr. Garner raised a point of order and said:

"Mr. Speaker: I raise the point of order that this bill cannot be referred to any committee of this House at this time, because the objections of the Governor, which were sent to the Senate in his veto message, have never been sent to this House, and we do not officially know that the Governor has vetoed the bill. Second, because Section 14, Article 4, of the Constitution expressly says that the bill, with the objections, shall be returned. The objections of the Governor, not being before this House, then the bill cannot possibly, under the provisions of the Constitution just cited, be before this House for any purpose. The objections of the Governor should be before this House, or else how can we know what those objections are? How is the committee to which this bill is referred going to know what the Governor's objections are unless the objections accompany the bill? The Constitution, parliamentary law and common sense each say that before a body can reconsider a bill which has been vetoed, it at least should know what those objections are."

In ruling on above point of order, the Speaker stated that the Secretary of the Senate failed to send the veto message with the bill and Senate message, and when his attention was

called to the omission he promptly sent it to the House, and held that the mere omission of the Secretary to send the message with the bill was not material, as the House had the right to call for the message at any time. (26th, p. 1014.)

The motion to refer was adopted—yeas, 85; nays, 14.

Senate bill No. 193, authorizing the St. L. & S. W. Ry. Co. to acquire certain lines was likewise vetoed by the Governor and passed over the Governor's veto by the Senate and transmitted to the House.

Mr. Dorroh moved to refer the bill to the Committee on Internal Improvements, whereupon Mr. Decker rose to a point of order and said:

"Mr. Speaker: On the question of the right of a member to discuss the motion to refer or commit Senate bill No. 193, known as the Cotton Belt consolidation, to the Committee on Internal Improvements, I raise the point of order that this bill has been heretofore referred to committees of both the Senate and House, finally passed and vetoed by the Governor, and is now before the House on the motion to pass over the Governor's veto, and therefore, on the motion to refer to committee, under Roberts' Rules of Order, page 63, Section 22, Rules of Congress, page 524, the motion opens up for discussion the main question."

In ruling on the above point of order, the Chair held that limited debate only would be allowed, and stated that members desiring to speak should appeal from the decision of the Chair.

There was no appeal. (26th, p. 1015.)

Mr. Garner rose to a point of order and said:

"Mr. Speaker: I submit for your consideration the following points of order relative to action now proposed in regard to Senate bill No. 193:

"Section 14, Article 4, of the Constitution provides: 'Every bill which shall have passed both houses of the Legislature shall be presented to the Governor for his approval. If he approve, he shall sign it; but if he disapprove it, he shall return it. with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered, and if approved by two-thirds of the members of that house it shall become a law.'

"This section of the Constitution as above cited clearly contemplates or provides that this House must have before it Senate bill No. 193, and the objections of the Governor, before this body can proceed to take any action upon said bill whatever. The Senate having failed to send to this body the objections of the Governor, as urged or set forth by the chief executive in vetoing said Senate bill No. 193, said bill is not properly before this House for consideration; and in the absence of the Governor's objections to said bill the House cannot legally take any action looking to or seeking to make any disposition of the bill at this time; therefore the motion to refer the bill to a committee is irregular and out of order until the Senate transmits to this House the Governor's objections to the bill now under consideration.

"Second. The Speaker is in error in ruling a motion to refer Senate bill No. 193 to the Committee on Internal Improvements to be undebatable. See Section 22, page 63, Roberts' Rules of Order, which provides that this motion takes precedence of the motions to amend or indefinitely postpone, and yields to any privileged or incidental question and also to the motion to lie on the table, or for the previous question, or to postpone to a certain day. It can be amended by altering the committee, or giving it instructions. It is debatable, and opens to debate the merits of the question it is proposed to commit."

The Speaker held that the mere omission of the Secretary of the Senate to send to the House, with the bill and Senate message, the veto message of the Governor was not material, because the House could ask for the transmission of the message, and the Secretary of the Senate did, in fact, transmit the message to the House as soon as his attention was called to the omission.

On the second point of order the Chair held that the motion to refer was open to limited debate only, and asked that an appeal be taken from the ruling of the Chair.

There was no appeal. (26th, p. 1015.)

After the above bills had been referred, the Speaker stated that the veto message of the Governor on the two bills did not accompany the bills.

Mr. Shannon then moved that the Secretary of the Senate be requested to transmit to the House the veto messages of the Governor on the bills above named.

Mr. Powell raised the point of order that the bill has been referred to a committee, and this motion comes too late.

The Speaker held the point of order not well taken, and stated that the absence of the documents referred to, on account of the failure of the messenger to transmit same, would not prevent the House from taking such action on the bills as to it might seem proper.

The motion of Mr. Shannon prevailed.

Later the Secretary of the Senate transmitted the veto messages. See Speaker's ruling above on points of order raised by Mr. Garner. (26th, p. 1017.)

The committee to which Senate bills Nos. 154 and 193 were referred reported, asking for further time, while a minority of the committee reported back to the House a recommendation that said bills do not pass over the veto of the Governor. The majority report was adopted.

In voting against the adoption of the majority report, Mr. Wooten said:

"I vote 'no' because I do not believe that there is any authority in the Constitution or rules of the House for referring a veto message to a committee, and the tactics adopted in regard to these bills is a violation of the Constitution as well as a filibustering method of defeating a veto without coming to a vote on it."

House bill No. 334, the bill proposed in lieu of Senate bill No. 193 (vetoed), was pending in the House.

A bill having been vetoed by the Governor and upon its receipt in the House, it was referred to a committee. Before the committee reported the bill, another bill upon the same subject had been introduced.

Mr. Wooten rose to a point of order and said:

"Mr. Speaker: I make the point of order that, the Chair having stated and held that the pending bill is substantially the same as Senate bill No. 154 on the same subject, which has been vetoed by the Governor, and is now pending on reconsideration in the Committee on Internal Improvements, the House cannot consider this bill.

"(1) Because the Constitution and rules of the House do not authorize the consideration of a new bill when a bill on the same subject has been passed and vetoed and is pending on reconsideration under the veto, but the vetoed bill must be first disposed of.

"(2) The original bill is, in contemplation of law, a defeated bill, because it has been vetoed and the House has not overridden the veto, nor acquiesced in it by definite action. If the veto is sustained by the House, then this bill cannot

be considered, as it covers the same subject. If the veto has not been sustained and is still pending, this method of avoiding decisive action on the veto is wholly unwarranted and is in violation of the constitutional procedure for acting on a veto message. Therefore this bill cannot be properly considered at this time."

The Chair held the point of order not well taken, on the ground:

(1) That the original bill has not been "considered and defeated by either house of the Legislature," as provided in Section 34, Article 3, of the Constitution.

(2) That when the vetoed bill was received from the Senate, the House had referred it to the Committee on Internal Improvements, and the House has granted further time to said committee for consideration of said bill.

(3) The point of order is not sustained by precedent in this or any other State. (26th, p. 1126.)

The same procedure was gone through with in reference to Senate bill No. 141, the H. & T. C. bill, and during the consideration of the new bill in lieu of the vetoed bill, Mr. Wooten rose to a point of order and said:

"Mr. Speaker: I make the point of order that, the Chair having stated and held that the pending bill is substantially the same as the Senate bill on the same subject, which has been vetoed by the Governor, and is now pending on reconsideration in the Committee on Internal Improvements, the House cannot consider this bill:

"(1) Because the Constitution and rules of the House do not authorize the consideration of a new bill when a bill on the same subject has been passed and vetoed and is pending on reconsideration under the veto, but the vetoed bill must be first disposed of.

"(2) The original bill is, in contemplation of law, a defeated bill, because it has been vetoed and the House has not overridden the veto nor acquiesced in it by definite action. If the veto is sustained by the House, then this bill cannot be considered, as it covers the same subject. If the veto has not been sustained and is still pending, this method of avoiding decisive action on the veto is wholly unwarranted and is in violation of the constitutional procedure for acting on a veto message. Therefore this bill cannot be properly considered at this time."

The Chair overruled the point of order on the ground:

(1) That the original bill has not been "considered and

defeated by either house of the Legislature," as provided in Section 34 of Article 3 of the Constitution.

(2) That when the vetoed bill was received from the Senate the House had referred it to the Committee on Internal Improvements, and the House has on today granted further time to said committee for consideration of said bill.

(3) The point of order is not sustained by precedent in this or any other State.

Mr. Smith of Grayson also rose to a point of order, and said:

"Mr. Speaker: I raise the point of order that House bill No. 782 is the same as Senate bill No. 141, which has been vetoed by the Governor, and that the only bill on this subject that can be considered is Senate bill No. 141, in the manner prescribed by the Constitution; that if House bill No. 782 is not in substance the same as Senate bill No. 141, then that the same cannot be considered unless a new notice has been published and exhibited, it being a special law."

The Chair overruled the point of order for the reason that the question whether notice has been given and the sufficiency of the same is for the House to determine in the first instance, and not the Chair, and finally a question for the courts. (26th, p. 1114.)

§ 1416. *Only requires a two-thirds majority of those present to pass bill over the veto of the Governor.*

In the Thirtieth Legislature, Senate bill No. 6 was pending in the House after having been passed in the Senate over the Governor's veto. The first vote showed 83 yeas, 36 nays, 2 present and not voting, 4 paired, a total of 125 present. The Speaker announced that, it requiring two-thirds majority vote of the members present to pass it, the bill was lost.

Mr. Alderdice, who had voted against the bill, moved to reconsider the vote by which Senate bill No. 6 failed to pass notwithstanding the objection of the Governor. The motion to reconsider prevailed.

After the second roll call the Speaker announced the result: 88 yeas, 36 nays, 3 present not voting, 127 members present, and that the bill had passed.

When the Speaker announced the result, Mr. Gaines raised the point of order that the bill had not passed, and in support of the point of order submitted to the Chair the following proposition:

The Constitution, in providing the procedure of passing a

bill over the Governor's veto, provides that it shall be returned with his objections, to the house in which it originated, and that this house—that is, "the house in which it originated"—may pass it by two-thirds of the members present." Then the bill shall be sent to the other house, where it can pass by "two-thirds of the members of that house." The point of order being that in this case the bill could pass the Senate by two-thirds of those "present," but that in the House it required two-thirds of the "members of the House," which would mean two-thirds of all the members elected, or eighty-nine votes, and there being only eighty-eight votes cast in favor of the bill, it had not passed.

The Speaker overruled the point of order and announced that the bill had passed. (30th, p. 1529.)

§ 1417. *Cannot amend a bill after being vetoed.*

The House had under consideration a bill vetoed by the Governor, the question being, Shall the bill be passed notwithstanding the objections of the Governor?

Mr. Nickels offered an amendment.

Mr. Kennedy raised a point of order on consideration of the amendment on the ground that it is not within the province of the House to amend the bill at this time.

Sustained. (32nd, pp. 732.)

§ 1418. *It is within the province of the House to refer a bill vetoed by the Governor, with the Governor's message, to a committee.*

Mr. Nickels of Hill moved that House bill No. 16, relating to the sale and disposition of intoxicating liquors and prescribing the hours of opening and closing places where such liquors are sold, which was returned to the House today with executive veto, be referred to the Committee on Liquor Traffic. This bill had been vetoed by the Governor.

Mr. Terrell of Bexar raised a point of order on consideration of the motion to refer the bill to the Committee on Liquor Traffic on the ground that it is not within the province of the House to do so. (32nd, p. 963.)

§ 1419. *Held that the substance of a bill which failed to pass over the Governor's veto cannot be offered as an amendment to a subsequent bill.*

The House having under consideration an act to adopt and establish the Revised Civil Statutes, Mr. Nickels and Mr. Kennedy offered an amendment which was in fact the seven

o'clock closing law, which had been vetoed by the Governor and the Governor had been sustained.

Mr. Buchanan raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill and that the subject matter of the amendment had already been voted down during this session of the Legislature.

Sustained. (32nd, p. 1287.)

CALENDAR OF THE DAY.

§ 1420. The calendar of any legislative day properly begins with the order of business as set forth in Rule XXI. It is as follows:

1. The daily order of business shall be as follows:

First—Prayer by the Chaplain.

Second—Excuses for absence of members and officers.

Third—First reading of bills filed with the Chief Clerk and introduction of bills from the floor and their first reading, and reference of bills to committees.

Fourth—Requests to print bills and other papers; requests of committees for further time to consider papers referred to them and all other routine motions and business not otherwise provided for, all of which shall be undebatable; but the mover may be allowed to state briefly the nature and purpose of the measure.

Fifth—Resolutions filed with the Chief Clerk, and resolutions offered from the floor, for twenty minutes, if not sooner disposed of.

Sixth—The unfinished business, to be considered until finally disposed of.

Seventh—Disposal of business on the Speaker's table, as follows:

(1) Resolutions laying over from the previous day, and Senate concurrent resolutions.

(2) Reports of conference committee.

(3) Senate amendments to House bills and resolutions, requests of the Senate for a conference and all matters of disagreement, amendments and requests between the two houses.

(4) Reports of standing and special committees.

(5) Bills on their third reading.

(6) Bills on their second reading.

§ 1421. On suspension days the regular order of business

may, by a majority vote, be suspended and any bill or measure taken up that may be desired. However, the practice has been that the Speaker recognizes only those whom he wishes to recognize on suspension days; therefore, after pending business has been disposed of, only such bills may be brought before the House as the Speaker desires. It is entirely within his discretion to refuse to recognize any one for any purpose except to call up such bills as he may desire called up. Formerly the practice was to recognize members indiscriminately at the pleasure of the Speaker, but the later practice is to not recognize a member but one time to take a bill up out of its regular order until all the other members have had an opportunity to have the regular order suspended, and this custom has been made a fixed rule. On Tuesdays House bills on their third reading have the right of way. On Senate bill days only Senate bills can be considered without the consent of the Senate. Special orders can be made on any day except Senate bill days, providing only one special order can be pending at the same time. Special orders must be made by an affirmative vote of two-thirds of the members present.

§ 1422. A bill is not considered on the calendar until it has been reported from a committee, printed and distributed unless the House has ordered it not printed; then it goes on as soon as it has been reported from a committee.

§ 1423. Except on suspension days, bills must be considered in their numerical order if reported from a committee, printed and distributed. Bills on their third reading take precedence. A Senate bill may be taken up on suspension days subject to the limitations prescribed by the rules on either its second or third reading, or it may be made as a special order.

§ 1424. With the exception of suspension days, the Speaker has no option in making out what is termed the calendar of the day. He must place bills before the House in their regular order, and if at recess the next bill to be considered, as appears from the calendar as laid upon the desks of the members, is House bill No. 29, and if, by the time the House reconvenes, House bill No. 7 has been received from the printer and has been distributed, it must be considered before House bill No. 29 is laid before the House, although House bill No. 29 may have been on the desks of the members for two weeks before House bill No. 7 was distributed.

§ 1425. A strict construction of the rule might justify suspensions on suspension days to begin immediately after prayer by the Chaplain. But the practice has been to proceed with the daily order of business until "bills on their first reading" has been reached, and then, if the pending business has been disposed of, motions to suspending the regular order, etc., may be considered.

CALL OF THE HOUSE.

§ 1426. 1. If on any roll call a quorum shall fail to answer, any fifteen members present, of whom the Speaker may be one, may move a call of the House.

1427. 2. It is in order to move a call of the House at any time to maintain a quorum for the consideration of any specific measure, bill or resolution.

§ 1428. 3. When a call is ordered, all outlets to the Hall must be ordered locked and no member shall be permitted to leave the Hall without the permission of the Speaker until the subject matter upon which the call was ordered has been disposed of.

§ 1429. 4. The roll is called and the absentees noted. Those who are absent unexcused may, by order of a majority of those present, be sent for and arrested by the Sergeant-at-Arms or other officers appointed by him for that purpose, and the House shall determine upon what condition they shall be discharged.

§ 1430. 5. Those who come in voluntarily shall be marked present.

§ 1431. 6. If the call was for the purpose of securing a quorum, no business shall be transacted until it is secured.

§ 1432. 7. A quorum being present, the House may proceed with the matter upon which the call was ordered, or may enforce and await the attendance of the absentees, pending which other business may be proceeded with.

§ 1433. It is a well-settled fact that a smaller number than a quorum has the constitutional power to either remain in session or to adjourn from day to day and compel the attendance of absent members, and a call of the House is always in order, not only under the general parliamentary law, but

under the Constitution, when there is not a quorum present. Under the rules of the House, we have seen, it is always in order to move a call of the House to maintain a quorum for the consideration of any specific proposition. Less than a quorum may make any order or adopt any resolution or take any steps necessary to compel the attendance of absent members.

§ 1434. Leave of absence may be revoked and absent members excused.

§ 1435. Literally speaking, the Sergeant-at-Arms should be provided with a warrant for the arrest of absent members, but it is a rare instance where that is necessary.

§ 1436. Members serving on a committee, although under leave of the House, are not exempt from liability to arrest during a call of the House.

§ 1437. At any time a majority of those present may desire, a motion to dispense with further proceedings under a call may be adopted, or the House may adjourn, which has the same effect, but a second motion to dispense with proceedings under the call, the first having been defeated, is not in order pending a motion for the arrest of absent members.

§ 1438. During the absence of a quorum, which has been disclosed by the record, the only proceedings in order will be a motion to adjourn or for a called session of the House, and no business may be proceeded with even by unanimous consent.

§ 1439. On all motions incidental to the call of the House, a motion to reconsider will be entertained and laid on the table, the previous question may be ordered and an appeal from a decision of the Chair may be considered.

1440. A motion for a recess is not in order during a call of the House, nor is a motion to excuse a member from voting. In fact, no other motion except as herein specifically stated can be entertained when there is a lack of a quorum and the House is under a call.

§ 1441. *Less than a quorum has the authority to issue warrants of arrest for those who, although not members of the House, prevent the officers of the House from securing the attendance of absent members.*

An Assistant Sergeant-at-Arms reported that porters had prevented him from entering the opera house for the purpose of apprehending absent members.

Mr. Thurmond moved that the Sergeant-at-Arms be directed to bring the offending parties to the bar of the House, that warrants be issued for arrest of same and that he be authorized to summon such assistance as might be necessary.

Mr. Satterwhite raised the point of order that, with less than a quorum, the House could not take any action except to adjourn or to obtain a quorum, and that the motion of Mr. Thurmond was not in order.

The Speaker overruled the point of order, stating that the person obstructing execution of the processes issued by authority of the House might thereby be preventing the obtaining of a quorum. (27th, p. 812.)

§ 1442. *Cannot force excused members to attend.*

Under the call of the House, Mr. Napier moved that the Speaker and the Sergeant-at-Arms wire all absent members to report at 9:30 tomorrow morning.

Mr. Cobbs raised a point of order on the above motion of Mr. Napier, in so far as it may apply to members who are absent with leave for tomorrow.

Sustained. (28th, called, p. 12.)

§ 1443. *Call of the House to secure and maintain a quorum in order at any time.*

Mr. McGown moved a call of the House for the purpose of securing and maintaining a quorum, and the motion was duly seconded.

The Speaker then directed the Doorkeeper to close the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading out of the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

The Clerk was then directed to call the roll to ascertain the names of the absentees.

The roll was called and showed the following members absent without leave: Messrs. Bierschwale, Birdsong, Brooks, Byrne, Cranke, Graham, Highsmith, Hornby, Logan, Maxwell, Randolph, Shannon, Singleton, Stone, Walker, Williams of Dallas.

The Chair announced that there was a quorum present.

Mr. Nickels of Hill raised the following point of order:

"I raise the point of order against the ordering of a call

of the House and maintaining the same until the presence of the absent members is secured, for the reason that no business can be transacted by the House pending such call, the roll call upon the motion for a call of the House showing a quorum present, and in this respect the call of the House and the rule under which it was moved is void, for the reason that the same contravenes Section 10, Article 3, of the Constitution of the State of Texas, which reads as follows: 'Section 10. Two-thirds of each house shall constitute a quorum to do business,' etc."

The Chair (Mr. Kennedy) overruled the point of order, saying:

"The rules of the House declare that it shall be in order to move a call of the House at any time for the purpose of maintaining a quorum for the consideration of a specific bill, resolution or other measure. The rule also states that when a call of the House is moved and seconded by fifteen members, of whom the Speaker may be one, it shall be the duty of the Doorkeeper to close the main entrance of the Hall and all other doors leading out of the Hall shall be locked, and that no member shall be permitted to leave the House without the written permission of the Speaker until after the subject matter upon which the call was ordered has been disposed of; that the Clerk shall call the roll and note the absentees, and that those for whom no sufficient excuse is made may by order of the majority of those present be sent for and arrested, etc.

"The gentleman from El Paso (Mr. McGown) moved a call of the House. It was duly seconded by more than fifteen members, and the Chair did proceed in accordance with the rule. The roll had been called and the House was proceeding to the consideration of the pending business, which was House bill No. 139, when the gentleman from Hill (Mr. Nickels) raised the point of order above recited. The gentleman from Hill refers to Section 10, Article 3, of the Constitution, which says 'that two-thirds of each house shall constitute a quorum to do business.' His contention, it seems, is that a call of the House contravenes this section, but the Chair fails to see it that way. The same section further says that 'a smaller number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalties as each house may provide.' This was exactly what the House was attempting to do when a call of the House was ordered; that is to say, a quorum was about to be broken after the last preceding roll call showing a bare quorum

present. Section 11 of Article 3 of the Constitution says that each house may adopt its own rules to govern its proceedings, etc.

"This House, in conformity with that constitutional provision, had adopted its own rules, among them the rule first above referred to. This rule does not in any way, so far as the Chair can see, prevent a quorum from transacting business, but does assist in the securing of a quorum and the maintaining of a quorum so that the House may transact its business. For this reason the point of order is overruled." (32nd, p. 345-6.)

COMMITTEES—APPOINTMENT OF.

§ 1444. Under the rules of the House, unless otherwise ordered, the Speaker appoints all of the committees, which consist of the number designated, and all bills, etc., are referred by the Speaker to the proper committee, subject to correction by a majority vote of the House.

§ 1445. The rules provide for the appointment of forty-seven committees and name the number to be appointed on each committee and designates the subjects of legislation to be referred to each committee.

§ 1446. No addition can be made to any of the committees after they have been formed except upon the suggestion of the Speaker and by a majority vote of the House.

COMMITTEES—ORGANIZATION OF.

§ 1447. As soon as practical after their appointment, it is the duty of the chairmen or the chairmen pro tem. (towit, the first named member after the chairmen) of the different committees to notify the Speaker in writing of the time fixed for the meeting of their respective committees, which information it is the duty of the Speaker to cause to be posted in a conspicuous place in the Hall as soon as possible. Each committee has a clerk. who is appointed by the Speaker. It is the duty of the Clerk to attend each meeting of the committee, to keep a correct record of the proceedings, and to make out, under the direction of the chairman, the formal reports of the committee.

COMMITTEES—POWERS OF.

§ 1448. So far as legislation is concerned, committees of the House have very little power, for the reason that their reports are advisory only and, aside from the fact that a favorable report secures the printing of a bill, which places it on the calendar, it has but very little value.

§ 1449. When it becomes apparent to the chairman of any committee that any member thereof is willfully absenting himself from the meetings of said committee after he has had due notice of the time and place of the meeting, it shall be the duty of the chairman to report said committeeman to the House and the committeeman shall be duly reprimanded or removed from the committee. It is the duty of every committeeman to attend all the meetings of the committee, and it is the duty of the committee as a whole to carefully consider each bill or measure referred to it and to make prompt reports and to faithfully discharge every other duty with which he as a committeeman is charged by the rules.

COMMITTEES—REPORTS OF.

§ 1450. A majority of a committee shall constitute a quorum for business, and no report shall be made to the House unless ordered by a majority of such quorum in committee assembled. All committee reports shall be in writing and in two parts—(1) the formal report, which shall be inserted in the Journal, must be signed by the chairman or chairman pro tem. and addressed to the Speaker, and shall contain a brief statement that the measure, described by number only, has been under consideration by the committee at a session thereof; that the committee has recommended that it do or do not pass, or be adopted, or pass or be adopted with amendments, as the case may be, and that a member of the committee, naming him, has been authorized to make a full report thereon to the House; and (2) the full report, signed by the member so authorized, which shall be printed with the measure reported, or if it be not printed, shall be inserted in the Journal, and which shall contain a brief statement of the nature of the measure, the change it makes in existing law, the object of such change, the reasons for it, and, if desired, the reasons advanced against it and a reply to such reasons, and the amendments recommended by the committee to the measure, if any, with a similar brief state-

ment in relation to these amendments. The views of the minority may be submitted in writing by any member of the committee, and shall be printed with the full report of the committee.

§ 1451. Bills, resolutions and other papers referred to committees shall be taken up and acted upon by the committees in the order in which they were referred, and shall be reported back to the House within six days from the date of their respective reference. If any committee shall fail or refuse to report the bill, resolution or other paper referred to it within six days, a motion shall be in order to give the committee additional time, which motion must receive a two-thirds vote of the House before it shall be carried. If a bill is not reported, and the time is not granted as herein set forth, the Speaker shall instruct the committee that the House desires an immediate report upon the bill or measure pending, and it shall be the duty of the committee to immediately consider and report the bill back to the House. (Sections 4 and 5, Rule 7.)

§ 1452. The committee may meet when and where it pleases, unless the House or the Speaker, acting within the rules of the House, has designated a place of meeting. No committee report is valid except that which has been agreed to by the committee actually assembled, and not by separate consultation and consent—nothing being the report of the committee unless it has been agreed to my a majority of those present when the committee is actually assembled, provided there was a quorum present. In Congress, when a committee has made a report not in accordance with this rule it has required, in some instances, the unanimous consent of the House to receive the report, although in other instances the presiding officer has submitted the question to the House.

§ 1453. It has been held that a quorum of a committee may transact business and a majority of that quorum, though it be a minority of the whole committee, may authorize a report.

§ 1454. Where an objection having been made that a report has not been properly authorized by a committee, and there is doubt about the validity of the authorization, the question has been submitted to the national House of Representatives for decision. It has also been held that a majority of a com-

mittee could make a report, although the committee meeting was not regularly called.

§ 1455. *Committee reports are advisory only.*

Mr. Garner rose to a point of order and said:

"Mr. Speaker: I make the point of order that this bill cannot now be voted upon by the members of this House, because the committee report has never been adopted by this House, and there is a majority and minority report, and hence before the bill can be voted upon the majority report must have been adopted. The majority report, which was adopted on yesterday, was not the report upon the bill we are voting upon, but was a report upon an entirely different bill, which had never been considered by any committee."

The Speaker held the point of order not well taken. (26th, p. 948.)

(Note.—Since the above ruling the rules of the House have been amended so as to expressly say that committee reports are advisory. (See Rule 8, Section 10.) The only advantage of a favorable report is that it carries with it a self-acting order to print the bill or measure, while it requires an order of the House to print a bill when the report is adverse.—Editor.)

§ 1456. *Adverse report of a committee does not kill a measure.*

A resolution providing that some one should be employed to transport the mail to and from the House had been reported adversely by the Committee on Contingent Expenses, to which it had been referred.

Mr. Hodges raised the point of order and stated that inasmuch as the committee report was adverse, it had the effect of killing the resolution, and that there was nothing before the House.

Overruled. (28th, p. 147.)

§ 1457. *Committee reports are purely advisory.*

Senate bill No. 4 pending on adverse report, Mr. Terrell of McLennan raised a further point of order on consideration of the bill on the ground that it is not properly before the House, since it has been reported adversely by the Committee on Revenue and Taxation, and that House bill No. 1, on the same subject, was reported favorably and should be considered.

Sustained. (30th, called, p. 150.)

§ 1458. *Floor reports officially recognized.*

A bill having been reported from the committee on a floor report, Mr. King raised a point of order on consideration of the bill on the ground that it was not properly before the House, stating that it had never been considered in committee, but was reported to the House by what is known as a "floor report."

Overruled. (30th, called, p. 344.)

§ 1459. *House cannot consider bill reported from an illegal committee.*

The House had under consideration a bill to regulate the liquor traffic, when Mr. Terrell of Bexar raised the following point of order on further consideration of the bill at this time:

"I raise the point of order that inasmuch as we are operating under the rules of the Thirty-first Legislature, and those rules required twenty-one members on the Committee on Liquor Traffic, and only fifteen members have been appointed; therefore, there has been no legal committee, and the bill not having been considered by a proper committee, is improperly on the calendar of the House, and should be struck from the calendar of the House."

In sustaining the point of order, Speaker Rayburn said:

"When the Committee on Liquor Traffic was announced, it was named in contemplation of the rules under which the House was operating being amended so as to change the number of members on that committee from twenty-one to fifteen. House bill No. 16 having gone before that committee and being favorably reported, and the rules not having been amended in compliance with the amendments introduced to said rules, I hold that House bill No. 16, which went before the Committee on Liquor Traffic, is improperly upon the calendar, for the reasons set out above. I therefore sustain the point of order." (32nd, p. 128.)

§ 1460. *The point of order raised on further consideration of a bill on the ground that it had not been properly reported to the House by the committee to which it should have been or was referred was sustained.*

Mr. Wood of Galveston raised a point of order on further consideration of the bill at this time on the ground that it had not been properly reported to the House by the Committee on Game and Fisheries.

Sustained. (32nd, p. 1302.)

§ 1461. *Bill cannot be considered when not reported from a committee.*

The Speaker laid before the House and it was read the second time a Senate bill, when Mr. Hill raised a point of order on the consideration of the bill at this time on the ground that it had not been reported from a committee of the House.

Sustained. (32nd, p 1322.)

COMMITTEES—RIGHTS OF.

§ 1462. *Is it within the province of the House to invite persons to address permanent committees of the House?*

Mr. Aldrich offered the following resolution:

Whereas, It has been announced through the press of this State that the Hon. James S. Hogg will deliver an address in the city of Austin on next Tuesday night in behalf of the constitutional amendments proposed by him; and,

Whereas, The adoption or rejection of said amendments is a matter of great public interest; therefore be it

Resolved, That Hon. J. S. Hogg be invited to use Representative Hall for the delivery of such address on next Tuesday night, or on any earlier night that he shall indicate.

ALDRICH.
GARY.

Mr. Garner offered the following amendment:

"Amend by striking out 'use Representative Hall' and inserting 'address the joint committee of the House and Senate on constitutional amendments.' "

Mr. Grisham raised the point of order on the amendment by Mr. Garner that it was not within the province of the House to invite any one to address a committee, but that such invitation must come from the committee.

Overruled. (27th, p. 274.)

§ 1463. *A House committee is a law unto itself so far as its procedure is concerned.*

Mr. McFall raised the point of order on the Garner amendment that it was not germane to the resolution, and should not be considered, since the object sought in the resolution was to tender the use of this hall to Hon. J. S. Hogg for the delivery of his address next Tuesday night, which has been advertised to be delivered in the opera house; and further, that the House had no jurisdiction in the matter of inviting any one to address a committee.

The Chair overruled the point of order and said:

"The rules of the House have no provision whereby the order of procedure before a committee can be dictated by the House. The committee, therefore, is a 'law unto itself,' and has the sole right of regulating its procedure.

"However, the Chair having been officially informed that the House committee has itself extended the invitation contemplated by the Garner amendment, the Chair holds that the said amendment is merely seeking ratification on the part of the House of the action of the committee, and therefore permissible.

"The original resolution merely provided for a change of place from the opera house to this hall for the delivery of the speech. The Garner resolution changes the place from this hall to the committee room, and in itself is germane. Even though germane, the Garner resolution would be ruled out as overriding the rights of the committee, if the committee had not already extended the invitation, but having extended the invitation, the House may ratify the acts of the committee. Point of order overruled." (27th, p. 303.)

1464. *A resolution which reflects upon a committee of the House held not in order.*

Resolution criticising a committee for an alleged violation of the rules was offered.

Mr. Dean raised a point of order on consideration of the resolution on the grounds:

1. That it cast an undue reflection on a standing committee of this House and on its chairman.

2. That the House yesterday accepted the report of the committee by a rising vote, and refused to recommit the bill for the alleged irregularities in same.

Sustained. (30th, p. 1284.)

Committees—In Vacation.

§ 1465. It often becomes necessary for the Legislature to appoint a committee to do some special work which of necessity must be done in vacation—that is, after the session has adjourned sine die. The opponents of these committees invariably take the position that they are not authorized and that the Legislature has no power or right to create a committee to sit between sessions of the Legislature. They base their contentions upon Section 18, Article 3, of the State

Constitution, which provides that no member of either house shall, during the time for which he is elected, be eligible to any office or place of appointment which may be made in whole or in part by the Legislature.

§ 1466. These precedents began with the Twenty-sixth Legislature.

In the House there was pending a resolution providing for the appointment of a joint committee to sit during recess and investigate the affairs of the State, for which members were to be paid.

Mr. Dorroh raised the point of order that the House has no authority to make the appointment of this committee for the reason that Section 18, Article 3, of the Constitution reads in part as follows: 'No member of either house shall, during the term for which he is elected, be eligible to any office or place, the appointment of which may be made, in whole or in part, by either branch of the Legislature."

The Speaker held the point of order not well taken, and stated that precedent and long-established custom would sustain the House in adopting such resolution if it chose to do so. (26th, p. 1062.)

PRECEDENTS.

§ 1467. In 1879 the Legislature authorized the appointment of a committee of two members from the House and one member from the Senate, to be appointed by the Speaker and the President of the Senate, to continue the investigation of land forgeries.

In 1891 a committee of three on the part of the House and two on the part of the Senate were appointed by the Speaker of the House and the President of the Senate to investigate the receivership of the International and Great Northern Railroad.

In 1901 a joint committee appointed by the presiding officers of the two houses was appointed to investigate the affairs of the State generally.

In 1909 a joint committee appointed by the Speaker and the Lieutenant Governor was appointed to investigate the penitentiary.

Each one of the foregoing committees sat in vacation and each member of the committees received for his services $5 per day for the time that he was engaged in the work and all necessary expenses.

§ 1468. The Attorney General ruled that the Legislature had authority to provide that a committee should be composed of members of the House and Senate to act after final adjournment of the Legislature; Speaker of the House and Lieutenant Governor may make appointments during session of the Legislature.

AUSTIN, TEXAS, March 15, 1909.

Hon. Thomas M. Campbell, Governor of Texas, Capitol.

DEAR SIR: Senate bill No. 159, providing for the appointment of four members of the Senate and five members of the House as a committee on investigation of the penitentiaries, etc., has had my consideration. This act presents the following questions:

1. Did the Legislature have the authority to provide that this committee should be composed of members of the Senate and the House of Representatives, respectively, to act after the final adjournment of the Legislature?

2. Can such members be compensated by the Legislature as members of said committee while they are members of their respective houses?

3. Has such committee authority to make such investigation after the adjournment of the Legislature and make their report to the Governor?

4. Can the Lieutenant Governor and the Speaker of the House of Representatives make the appointments required by the act during the present session of the Legislature?

The act provides for the appointment of four members of the Senate by the Lieutenant Governor and five members of the House by the Speaker, who shall constitute a committee on investigation to visit the penitentiaries at Huntsville and Rusk, respectively, and such other places as in their judgment may be necessary to the end that a thorough investigation of the penitentiary system may be made, and providing that said committee shall sit in vacation, and makes an appropriation therefor, etc.

I answer each of the above questions in the affirmative.

(Branham vs. Lange, Auditor, 16 Ind., 497.)

The general assembly of the State of Indiana passed an act that the sum of $1,000,000 be appropriated to defray the expenses growing out of the insurrectionary condition of a portion of the United States, and appointed a committee, consisting of two members of the House and one of the Senate, called an auditing committee, to meet at Indianapolis

monthly and examine and audit the accounts in the matter of such appropriation.

It was provided that such committee should each receive the sum of $3 per day for each day that they were employed in the discharge of their duties and 5 cents per mile for the distance traveled in going to and returning from their attendance upon such duties, which should be paid out of the money appropriated.

The law was claimed to be unconstitutional because the members of the general assembly could not exercise legislative functions after the adjournment of that body and after it had ceased to exist as an organized body; also that the act created an office and that the members of the general assembly could not hold two offices at the same time.

The court held the act constitutional, and said:

"It seems to be a rule of parliamentary law that a legislative committee cannot regularly sit in a vacation of the sitting of the legislative body (Cush. Parl. Law, p. 738 and note); but yet Mr. Cushing says, on page 737, that 'it is an expedient sometimes resorted to by committees, with a view to dispose of the business referred to them, to adjourn without day, or to a day beyond the session. This course, though irregular, as it is the duty of the committee to report, may, and commonly does, receive the sanction, or at least the acquiescence, of the House; otherwise the committee may be directed by the House to reassemble and proceed with the business.' The above is the parliamentary rule, we take it, where the Legislature has specially prescribed none upon the subject, or for the given occasion; but to say that the Legislature has not the power to authorize a committee to sit in vacation is a proposition which the practice of the Legislature of this State, and of Congress as well, we think, as the dictates of correct reason contradicts.

"We do not think membership in this committee an office within the meaning of the Constitution, but rather a special appointment to perform a particular act of service. The Legislature might have passed an act creating the office of Auditing Committee, prescribed its duties and the mode of continuing it in active, permanent service by the filling of vacancies that might happen, etc.; but it has not attempted thus to act. The Legislature appropriated a large sum of money upon a special, temporary occasion, not in accordance with the usual course of legislation, which was to be hurriedly expended. To supervise the expenditure of this particular,

extraordinary appropriation, they appointed a temporary committee and provided for paying its members while attending to that duty. It is a special service, not coming within the meaning of the term 'office' as used in the Constitution. As an illustration: A court may have power to appoint a commissioner or auditor, as he is often called in the English practice, to be a permanent officer of the court, or at least for a term of years, to whom shall be referred all accounts to be taken in pending suits, etc.; or the court may appoint some given individual to audit and state the account in a particular pending suit. Now, in one case, the court would appoint an officer; in the other it would not. Again, the law might provide for the appointment by the court of a county arbitrator, to whom all cases should be referred for arbitration, etc., giving such person a salary or fee in each case for his compensation. Here an office would be created, and an officer might be appointed. But where the court now appoints an arbitrator to hear a single case an officer, within the meaning of the Constitution is not appointed."

The case of Commercial Bank vs. Worth, State Treasurer, 117 N. C. Reports, page 146, holds the same doctrine (supra); also Marshall vs. Harwood, 2 Md., 466.

In the North Carolina case (supra) the act provided that if the committee did not report during the session of the Legislature, it should report to the Supreme Court, and it was held that this would be a legal report.

My opinion is that the act is constitutional and that the committee can be appointed and can lawfully exercise the powers and discharge the duties prescribed by said act, though the Legislature may have been finally adjourned?

Yours respectfully,

(Signed) R. V. DAVIDSON,
Attorney General.

COMMITTEE OF THE WHOLE HOUSE—RULE XX.

§ 1469. *A bill having been considered in the Committee of the Whole House in part, it would not be in order to resume consideration in the House until the final report of the Committee of the Whole House had been made.*

Mr. Decker offered the following substitute for the pending amendments:

"That House bill No. 111 be adopted down to line 28, page 32; provided the appropriation for State University may be amended or added to."

Mr. Bailey raised the point of order that the bill is not properly before the House, for the reason that it was considered in part by a Committee of the Whole House, and then taken up in the House without said Committee of the Whole having made a final report to the House.

Mr. Bailey then moved that the House adopt so much of the bill as was considered in Committee of the Whole, together with such amendments as were adopted by the committee. (29th, p. 1009.)

(Note.—While the record does not disclose the ruling of the Chair, the presumption is that point was well taken.—Editor.)

§ 1470. *Held that a resolution carrying an appropriation could be considered without referring it to the Committee of the Whole.*

Pending resolution carried an appropriation.

Mr. Kennedy raised a point of order on consideration of the resolution, stating that, as the resolution proposed an appropriation, it should be considered in a Committee of the Whole House.

Overruled. (30th, p. 40.)

§ 1471. *Held not necessary for bill carrying an appropriation to be considered in the Committee of the Whole House.*

Bill carrying an appropriation pending in the House without having been referred to the Committee of the Whole.

Mr. Kennedy raised a point of order on further consideration of the bill on the ground that the bill carries an appropriation and that it should be considered in a Committee of the Whole House before being finally passed.

Overruled. (30th, called, p. 313.)

DECORUM AND DEBATE.

§ 1472. It is a general parliamentary rule that there must be something before the House before a member may proceed in debate, and this something must be a definite motion and may be required to be in writing. A withdrawal of the motion prohibits further debate on the motion. But sometimes, when a report or a message from the Governor, for instance, has been before the House, it has been debated upon before any specific motion was made in relation thereto. Before debate begins, the motion must be stated by the Speaker or read by the clerk.

§ 1473. A member who desires to speak should address the Chair, and, having obtained recognition, may proceed if he does so in an orderly and parliamentary way—i. e., avoiding personalities—until he consumes his time, which, under the new rules, is ten minutes, which may be extended by motion to twenty minutes, and after that he can speak only by unanimous consent, unless he is the mover of a proposition or has the bill or measure under consideration in charge. Then, on motions to table or under the previous question, he has twenty minutes in which to close the discussion. The time limit of ten minutes does not apply to appropriations. According to the rules, a member may speak fifteen minutes only on appropriations. A member having the floor may not be taken off by an ordinary motion, even by the higher privileged one to adjourn, but he may be interrupted by messages from the Senate or from the Governor, this being the custom rather than the written rule. A member may yield the floor for a motion to adjourn or resume his seat while a paper is being read in his time without losing the right to the floor. If a member yields the floor to another to offer an amendment, he loses his right. A member desiring to interrupt another in debate must secure recognition from the Chair for permission to ask the member speaking if he will yield. The latter may exercise his own discretion as to whether or not he will yield.

§ 1474. The rule which should be adhered to is that when speaking a member must confine himself to the subject under debate. In discussing an amendment, the debate must be confined to the amendment and not include the general merits of the bill. While the Speaker has the unchallenged right of recognition, and from which no appeal can be taken, he is not, however, a free lance in determining who is to have the floor. Congressional practice has established certain rules from which he must not depart if he would preserve an orderly discussion of the proposition.

§ 1475. When a certain bill is before the House, he must first recognize, for motions for its disposition, the member who represents the committee or the person who has charge of the bill. Usually the chairman of the committee has charge of the bill, unless he yields to the author or the chairman is opposed to the bill, and he is entitled at all stages to prior recognition for motions that are in order which are intended to expedite the passage of the bill. Where a propo-

sition is brought directly before the House, the mover is entitled to prior recognition for motions and debate. It is not in order for any member, by offering a debatable motion of higher privilege than the pending motion to take a member off the floor, but when the mover of the pending motion has yielded the floor a motion of a higher privilege may be made. The fact that a member has the floor on one matter does not entitle him to prior recognition. When an essential motion made by a member in charge of the bill is defeated, his prior right to recognition passes to the member leading the opposition to the motion. But the mere defeat of an amendment proposed by the member in charge does not cause recognition to pass to the opponent.

§ 1476. In recognition for general debate, the Speaker should alternate between those favoring and those opposing.

§ 1477. It is entirely proper, when a member seeks recognition, for the Speaker to ask, "For what purpose does the gentleman rise?" And, as we have seen, the Speaker may, or may not, recognize a member, from which there is no appeal. That there should be no appeal on questions of recognition is a wise and beneficent rule. Were it otherwise, endless confusion would often exist and instead of a deliberative assembly we would have a mass meeting uncontrollable.

It may be added that no member is entitled to the floor unless he adheres to the rules. If he indulges in accusations against the integrity of his fellow members, he may be taken off the floor and reprimanded. If he persists, he will be in disorder.

§ 1478. *The House may, by resolution duly adopted, fix the time for debate on any measure pending before the House.*

Mr. Schluter offered a resolution that eight hours should be devoted to a discussion of House Joint Resolution No. 1. It also provided that the time should be equally divided between the proponents and the opponents, and that the time of each side should be consumed by those selected by the respective caucuses.

Mr. Shannon raised the point of order that the resolution was in the nature of a change in the rules affecting the order of business, and therefore out of order.

Overruled.

Mr. McFall raised the additional point of order that the resolution, if adopted, would cut off a full discussion of the

question as provided for in the Constitution and rules of the House.

Overruled. (27th, p. 456.)

§ 1479. *Debate is not in order pending a motion to extend the time of a member who has the floor.*

Mr. Mobley raised a point of order, stating that it is not in order for the gentleman from Tarrant county (Mr. Wortham) to speak to the resolution at this time, for the reason that when the House adjourned yesterday the pending question was—Shall the time of the gentleman from Austin county be extended?

Sustained. (31st, p. 136.)

(Note.—Although it has been the practice to extend, by unanimous consent, and sometimes by order of the House, the time of a member while speaking, it is not in accordance with the rules to extend it if there is objection. The rule (10) expressly fixes the time that a member may speak (see Sections 3 and 4; also Section 7, Rule 12, and Section 4, Rule 13). Section 3 of Rule 12 says: "When a question is under debate, no motion shall be received but ——" Then follows nine motions which are permissible and in order, but a motion to "extend the time of the gentleman from Austin" is not one of them. It is true, however, that during the regular session of the Thirty-first Legislature Mr. O'Bryan, while temporarily occupying the chair, declared the motion last above mentioned out of order, and on appeal the House refused to sustain the Chair. But the Speaker of the House (Mr. Kennedy) refused to recognize the decision of the House and only permitted a member to exceed the time limit set by the rules by unanimous consent.—Editor.)

§ 1480. *When a motion is made to table a proposition, the mover of the same or the member reporting it from a committee has the right to close the debate.* (Rule XII, Section 7.)

Mr. Fuller being recognized to speak to the motion to table, Mr. Ray raised a point of order that the motion to table is not debatable.

The Chair overruled the point of order, stating that the mover of the proposition has the right to close the debate. (31st, p. 826.)

§ 1481. *While under the previous question, the mover has the right to close the debate, he cannot speak after the vote*

has been taken and when the Chair is about to announce the vote.

The House was considering an amendment to the rules. The previous question had been ordered. After the vote had been taken, but before the same had been announced, Mr. Seabury, chairman of the Committee on Rules, arose to address the House.

Mr. Wells of Grayson raised the point of order that, for the reason that the previous question had been moved and seconded, and that the House had voted, and the Chair being in the act of announcing the result, further discussion was out of order, even by the mover of the proposition.

The Chair sustained the point of order and stated that the gentleman from Starr would have had the right to address the House under the previous question if he had sought recognition at the proper time, but since the House had come to a vote on the question and the result was about to be announced, the Chair would only permit further discussion by unanimous consent. (27th, p. 239.)

DILATORY MOTIONS.

§ 1482. There is no express rule in the House with reference to dilatory motions, so we must look to Jefferson's Manual and the precedents in Congress to determine this matter. Pending a motion to suspend a rule in Congress, the Speaker may entertain one motion that the House adjourn, but that being voted down, he shall not entertain any other motion to adjourn until the vote is taken on suspension.

§ 1483. A motion for a recess and for a call of the House when there was no doubt of the presence of a quorum were held to be dilatory motions within the meaning of the rule, but this might be evaded under our rules because it is expressly provided that a call of the House may be made for the purpose of maintaining a quorum on any proposition. However, no dilatory motions should be entertained by the Speaker because, as it has been said, "the object of a parliamentary body is action, not stoppage of action."

§ 1484. Motion for appeal on a question as to the dilatoriness of the question has been declined, but this should not be done until the object of the dilatory motion has "become apparent to the House." Usually the Speaker waits for a point

of order from the floor before acting, but he may act on his own motion.

§ 1485. The rule has been applied to motions to adjourn, to reconsider, to fixed debate in a committee as a whole and to the point of no quorum, but the constitutional right of a member to demand the yeas and nays may not be overruled or denied because it seems to be made for dilatory purposes.

§ 1486. *A motion to adjourn held not to be dilatory.*

Pending a motion to adjourn, Mr. Satterwhite raised the point of order that the motion to adjourn is purely dilatory and for the purpose of obstructing proceedings, and should not be entertained.

Overruled. (27th, p. 1223.)

§ 1487. *A member is not entiled to the floor when his evident purpose is to delay the transaction of business.*

Mr. Reedy being recognized to speak to his amendment, Mr. Rayburn raised the point of order that he is not entitled to the floor for the reason that he was using it for dilatory purposes.

Sustained. (31st, p. 1204.)

§ 1488. *Yeas and nays—Demand for, a constitutional right and not dilatory.*

Constitution, Article 3, Section 12: Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

Rule 9, Section 6: The yeas and nays of the members of the House on any question shall, at the desire of any three members present, be called and entered on the Journal.

Yeas and nays having been demanded on a pending motion, Mr. Mays raised a point of order on the demand for the yeas and nays on the ground that the yeas and nays are being continually demanded by certain members for the purpose of obstructing the proceedings of the House, and that the Chair should not entertain the demand.

The Chair (Mr. Harris) overruled the point of order. (29th, p. 1345.)

§ 1489. *The demand for a full reading of a bill is not in order if it is made for the manifest purpose of delaying the proceedings of the House.*

A demand was made to have a bill read in full, when Mr. Maddox raised a point of order on the demand for a full reading of the bill on the ground that such demand was made for dilatory purposes.

Sustained. (32nd, p. 367.)

DIVISION OF QUESTIONS.

§ 1490. *Susceptible of division, a question must be divided when demanded, at the proper time; but the division must be called for before the Clerk begins to call the roll.*

Shall the House concur in Senate amendments? Yeas and nays were demanded on the motion to concur.

The Clerk was directed to call the roll, whereupon Mr. Jones called for a division of the amendments.

The Clerk was then proceeding to read the amendments.

Mr. Terrell of Travis obtained the floor and moved to table the call for a division of the amendments.

The Chair ruled the motion to table out of order.

Mr. Terrell of Travis then appealed from the ruling of the Chair.

The House sustained the ruling of the Chair.

(Mr. Seabury then resumed the chair.)

Question then again recurring on the request of Mr. Jones for a division of the amendments, Mr. Love raised a point of order on the request for division, stating that the request had come too late, since the yeas and nays had already been demanded on the motion to concur, and the Chair had directed the Clerk to call the roll.

Sustained. (28th, p. 1059.)

§ 1491. *A motion to recede from the rejection of the Senate amendments to a bill is not divisible.*

A motion to recede from the rejection of Senate amendments to a House bill and a motion to insist upon them were pending.

Mr. Brown of Wharton called for a division of the question on the amendments.

Mr. Hamilton raised a point of order on the call for a division, stating that the question was indivisible on the motion to recede.

Sustained. (30th, called, p. 390.)

EXPENSE—CONTINGENT.

§ 1492. *A motion to purchase a portrait of a Texas pioneer and pay for it out of the contingent expense fund held in order.*

A resolution to purchase a portrait of General Ed Burleson and pay for it out of the contingent expense fund of the House was offered.

Mr. Murray of Wilson raised a point of order on consideration of the resolution, stating that the resolution proposes to appropriate money out of the contingent fund for a purpose that cannot be construed as contingent expenses, and that said appropriation cannot be made except by bill, without doing violence to the Constitution and the Rules of the House, which provide that (see Rule XXI, Section 1) "no appropriation of money shall be made except by bill."

Overruled. (29th, p. 451.)

ELECTION OF UNITED STATES SENATORS.

§ 1493. *The House and Senate having agreed upon an hour for the election of a United States Senator, all else must give way at that hour.*

While Mr. King was on the floor speaking to a pending question, Mr. Fuller raised the point of order that the hour (12:15 p. m.) set apart by concurrent vote of the two houses for the House to go into the election of a United States Senator, had arrived and that pending business should now be suspended for that purpose.

Sustained. (30th, called, p. 181.)

(Note.—Hereafter United States Senators will be elected by a direct vote of the people.—Editor.)

ELEVATOR.

§ 1494. *Has the House jurisdiction over the elevator?*

Mr. Sevier offered the following resolution:

Resolved, That Charles Ferrell be employed as elevator man to operate the elevator in the Capitol building at a salary of sixty dollars per month, for as long as this Legislature shall remain in session, to be paid out of the contingent funds of the House.

Mr. Seabury raised a point of order on consideration of the resolution and stated that the resolution was out of order for the reason that its tendency was to extend the jurisdiction of

the House over the elevator, thereby encroaching upon the authority of the Superintendent of Public Buildings and Grounds.

Sustained. (30th, p. 181.)

EMPLOYES.

§ 1495. *A resolution to employ stenographers, etc., on January 21st, having been voted down, held that a resolution offered at a later date for the same purpose was entirely different.*

Mr. Looney offered a resolution providing for the appointment of additional stenographers.

Mr. Satterwhite raised the point of order that a resolution similar in substance was defeated by the House on January 21st and that, under Article 3, Section 34, of the Constitution, another resolution with the same object in view could not be considered at this session.

The Speaker overruled the point of order, stating that while both resolutions sought to make provision for appointment of stenographers and typewriters for the use of the House, the proposition to provide for such service on January 21st was entirely different from the proposition coming at this time. (27th, p. 323.)

§ 1496. *The question of selecting employes for a called session of the Legislature succeeding a regular session fully discussed.*

Mr. Calvin offered a resolution discharging all of the employes of the House appointed for the Regular Session and authorizing the Speaker to appoint three committee clerks and not exceeding six pages to be selected from among the employes of the Regular Session.

Mr. Jones offered a substitute, instructing the Speaker to discharge all employes whose services, in his judgment, were not required.

Mr. Grisham raised a point of order on consideration of the pending resolutions, stating that all appointments expired with the Regular Session, hence there were no employes to be discharged.

Overruled. (28th, p. 5.)

Calvin resolution pending.

(1) Mr. Cobbs raised a point of order on consideration of the resolution, stating that if the organization of the House still existed as provided for in a resolution by Mr. Griggs,

adopted January 15th, as shown on page 33 of the printed records of the Regular Session, said resolution must be rescinded before a resolution like the one now pending before the House is in order.

Overruled.

(2) Mr. Cobbs then raised a further point of order on consideration of the resolution, stating that there is no necessity for the pending resolution, since the original resolution, adopted January 15th, as shown on page 33 of the printed record (alluded to above), provides that any of the employes provided for in said resolution may be "discharged by the Speaker for inefficiency, neglect of duty, or other satisfactory cause," and that, under said resolution, the Speaker is vested with full authority to dispense with the services of any of said employes as provided thereunder, and furthermore, that the resolution is a serious reflection on the prerogatives of the Speaker.

Overruled.

Mr. Cobbs appealed from the ruling of the Chair on the first point of order raised.

The House sustained the ruling of the Chair. (28th, p. 11.).

EMPLOYES—COMPENSATION OF.

§ 1497. A resolution to increase the compensation of the employes of the House had been reported favorably by the Committee on Contingent Expenses, to which it was referred.

Mr. Henderson of Lamar raised the point that the resolution reported by the committee was not in order and should not be entertained until a resolution relating to organization of the House, adopted January 10th, is rescinded.

Sustained. (26th, p. 360.)

(Note.—A minority of the Committee here made the following report: "Committee Room, Austin, Texas, March 18, 1899. Hon. J. S. Sherrell, Speaker of the House of Representatives. Sir: We, a minority of your Committee on Contingent Expenses, do not concur in the opinion of the majority of this committee, which recommends that the Reading Clerk be allowed $1 per day from March 1, 1899, for extra work. Personally, we would be glad to support this resolution, but for the reason the granting of extra compensation as proposed is, in our opinion, expressly prohibited by Section 44, Article 3, of the Constitution. Moreover, the Speaker has held that a resolution of this kind cannot be considered un-

less the resolution providing for the organization of the House be reconsidered, and that it is now too late for such reconsideration.—Calvin, Kennedy, Meitzen." (26th, p. 1151.)

(The House rejected the proposition to increase the compensation asked for.—Editor.)

§ 1498. *Held that a motion to grant extra compensation to an employe was in order, notwithstanding original resolution providing for the organization of the House had not been rescinded.*

Mr. Henderson of Lamar raised the point of order that it is not proper to entertain a proposition to grant extra compensation to an officer of the House until a resolution relating to organization of the House, adopted January 10, 1899, is rescinded.

The Chair held the point of order not well taken. (26th, p. 1152.)

Mr. Chambers raised the point of order that a proposition of like character had been submitted to the House before—that is, to allow extra compensation to officers of the House—and had been declared out of order by the Speaker on a point of order raised by the gentleman from Lamar (Mr. Henderson).

The Chair held the point of order not well taken. (26th, p. 1152.)

EMPLOYES—"SICK-PORTER."

§ 1499. *It has been held that the House can employ a porter to look after sick members.*

Mr. Ware offered a resolution authorizing the Speaker to appoint a sick-porter to attend a sick member during his illness.

Mr. Isaacks raised a point of order on further consideration of the resolution, stating that the House had no authority under the Constitution to employ a person for the purpose named in the resolution.

Overruled. (28th, p. 750.)

ENACTING CLAUSE.

§ 1500. *Motion to strike out the enacting clause takes precedence of all other amendments.*

Mr. Bridgers offered as an amendment to a pending bill a motion striking out the enacting clause.

Mr. Napier raised the point of order that the amendment by Mr. Bridgers should not be put to a vote until the friends of the bill shall have time to perfect it.

Overruled. (27th, p. 110.)

§ 1501. *If the enacting clause appears in the original copy of the bill as filed, its omission from the printed bill is immaterial.*

Mr. Bolin raised a point of order on further consideration of the bill, stating that as the printed bill contains no enacting clause, there is nothing before the House.

The Chair overruled the point of order, stating that the original bill on the Speaker's table contains the enacting clause and that the omission is clearly a mistake of the printer. (28th, p. 786.)

INVESTIGATION.

§ 1502. *Can the House investigate the conduct of a private citizen?*

Mr. Garner offered a substitute for the original McFall resolution, which differed from the original in this: The McFall resolution alleged, "It has been charged," etc., while the Garner resolution struck these words out and inserted in lieu thereof, "It has been charged by Hon. D. A. McFall," etc.

Mr. Calhoun raised the point of order that the resolution under consideration is out of order for the reason that this House has no legal or constitutional authority to resolve itself into a Committee of the Whole House to investigate the character of a private citizen.

The Chair overruled the point of order and stated that it would be left for the House to pass upon. (27th, p. 50.)

JUDGES—DISTRICT.

§ 1503. *Leave of absence granted district judges within the power of the House.*

A resolution granting a district judge permission to leave the State pending, Mr. Jenkins raised a point of order on consideration of the resolution, stating that it is entirely unnecessary and superfluous, for the reason that there is neither any constitutional or statutory law that makes it necessary that the Legislature grant a district judge leave to absent himself from the State.

The Speaker overruled the point of order and said: "The

contention of the gentleman from Brown that such a resolution is futile and unnecessary may be correct, but that question is one to be passed on by the House and not by the Chair." (30th, p. 455.)

Mr. Gafford raised a point of order on consideration of the resolution on the ground that there is no law requiring that a district judge obtain permission of the Legislature in order that he may absent himself from the State.

The Speaker overruled the point of order and stated that it is within the power of the House to pass such a resolution should it desire to do so. (30th, p. 668.)

LANDS—PUBLIC FREE SCHOOL.

§ 1504. Bill pending was to confirm an ordinance of the city of Galveston which granted certain rights to streets and alleys in Galveston and authorizing C. P. Huntington et al. to construct and maintain piers on the shores of Galveston Bay and relinquishing any claims the State of Texas might have to said property.

Mr. Henderson of Lamar raised the point of order that—

First. Lands sought to be conveyed constitute a part of the common free school fund. (See Supreme Court's decision in Hogue vs. Baker, Commissioner.)

Second. That said lands are to be disposed of by general statute. (See Article 7, Section 4, State Constitution.)

Overruled. (26th, p. 942.)

MOTIONS.

(See Rule 12.)

§ 1505. *Mover of motion to adjourn must be present when vote is taken.*

Mr. Phillips made a motion to adjourn, but before the motion was put he left the Hall.

Mr. Bean raised the point of order that the mover of the motion was absent from the Hall and that by his absence had waived the motion.

Sustained. (27th, p. 349.)

MOTIONS—PRECEDENCE.

(See Rule 12.)

§ 1506. *Motion to postpone to certain day takes precedence over motion to postpone indefinitely.*

Mr. Napier raised the point of order that the motion to postpone to a day certain took precedence of a motion to postpone indefinitely and should be decided first.

Sustained. (27th, p. 634.)

MOTIONS—POSTPONEMENT.

§ 1507. *A motion to postpone to a day certain takes precedence over a motion to postpone indefinitely.*

Mr. Kennedy raised a point of order on consideration of the motion to postpone indefinitely on the ground that the motion to postpone to a day certain takes precedence and that the latter motion should not be entertained by the Chair.

Sustained. (29th, p. 759.)

OFFICERS.

§ 1508. *Speaker not responsible for acts of elective officers.*

Mr. Keennedy rose to a point of order and said:

"Mr. Speaker: For the third time I demand that the Clerk read the bill in full. He has omitted at least two-thirds of it, and I protest against the disregarding of the plain mandates of the Constitution in this matter."

The Speaker stated that the Chair is not responsible for the manner in which the Clerk reads a bill. (26th, p. 718.)

(Note.—The rules of the Thirty-first House declared that the Chief Clerk of the House, under the direction of the Speaker, should have charge of the secretarial work of the House.—Rule 4, Section 1.—Editor.)

OFFICERS—EXTRA COMPENSATION.

§ 1509. *All officers of the House shall be elected by ballot, and shall receive such compensation as the House may determine; and after their salary has been fixed no further or extra compensation shall be allowed them.* (Rule No. 2.)

A resolution pending to pay the Reading Clerk $1 per day from March 1st for extra work.

Mr. Terrell raised the point of order that additional pay could not be allowed under Rule 63, which reads as follows: "No extra compensation shall be allowed to any clerk or other officer of the House."

Overruled. (26th, p. 1151.)

ORDERS OF THE HOUSE.

§ 1510. *The House can instruct a committee at any time.*

Mr. Cobbs offered a resolution instructing a committee to "at once report on the bill."

Mr. Love of Dallas raised a point of order on consideration of the amended resolution on the ground that the House had this day granted the Committee on Revenue and Taxation ten days' further time for consideration of all bills before it and that the House could not, immediately following said action, direct the committee to report a bill at once.

The Speaker overruled the point of order, holding that the adoption of the resolution would simply be an order of the House. (29th, p. 486.)

§ 1511. *The House can instruct a committee.*

Mr. Fitzhugh offered a resolution ordering a bill still in a committee unreported, printed and set down for a hearing at 2:30 p. m. next Friday.

Mr. Williams raised a point of order on consideration of the resolution, on the ground (1) that it would have the effect to change the rules of the House and that it should go to the Committee on Rules and, furthermore (2) that it seeks to establish a special order before another special order of the calendar is finally disposed of.

The Speaker sustained the point of order (2) in so far as it relates to a conflict with another special order not disposed of, but held that the House could instruct a committee and that part of the resolution is in order. (29th, p. 486.)

PENDING BUSINESS.

§ 1512. *Although the House may begin the consideration of a bill out of its place on the calendar, it must give way to the proper pending business if the point of order is made.*

The House was considering Senate bill No. 2.

Mr. Kennedy raised the point of order on further consideration of Senate bill No. 2 at this time on the ground that Senate bill No. 19 is, in fact, the pending business and should have been laid before the House as unfinished business in lieu of Senate bill No. 2.

Sustained. (30th, called, p. 311.)

The House resumed consideration of Senate bill No. 2, which had gone to the table, pending the consideration of Senate bill No. 19.

Mr. Kennedy then raised the point of order on further consideration of the bill at this time, stating that the bill is not properly before the House, for the reason that, when Senate bill No. 19 was disposed of, the Speaker should have laid the bill before the House as pending business, and have stated the question.

Overruled. (30th, called, p. 313.)

(Note.—This point of order was made for the purpose of delay and to obstruct the proceedings of the House.—Editor.)

PERSONAL INTEREST.

§ 1513. Mr. Middlebrook raised a point of order on further consideration of the bill (anti-pass bill), stating that, as a majority of the members were personally interested in the subject matter of the bill, they are disqualified under Section 22, Article 3, of the Constitution of Texas from voting on the bill, and that a quorum could not be secured to vote on its passage.

Overruled. (28th, p. 786.)

(Note.—The Speaker evidently believed that the "question of personal interest" was one for each member to decide for himself.—Editor.)

PETITIONS—MEMORIAL.

§ 1514. *Petitions sent to members may be read for the information of the House.*

Mr. Nelson of Hopkins sent up to the Clerk's desk and asked to have read certain petitions from citizens of Hopkins county relative to election of United States Senators.

While the Clerk was reading the petitions, Mr. Dean raised the point of order that the petitions were sent to the gentleman from Hopkins personally, and not to the House, and that it was entirely out of order to have them read in the House.

The Chair held the point of order not well taken. (30th, p. 175.)

PLATFORM DEMANDS.

§ 1515. *Since the adoption of Rule 22, Section 2, it has been repeatedly held that all bills having for their purpose the carrying out of some platform (Democratic) demand should have the right of way over all other measures except the classes of bills especially excepted by the rule.*

To the consideration of a bill regulating primary elections, Mr. King raised a point of order on consideration of the bill as a Democratic platform demand on the ground that the purpose of the bill did not conform to the demand of the Democratic platform on the subject of primary elections.

Overruled. (30th, p. 1218.)

(Note.—The point at issue was whether or not a bill providing for party nominations by a plurality vote was a compliance with the demand which declared for a law making such nominations by a majority vote.—Editor.)

§ 1516. Mr. Terry raised a point of order on consideration of a bill prohibiting minors from obtaining intoxicating liquors, on the ground that it is not a platform demand and does not relate to any platform demand.

The Chair sustained the point of order, and the bill was withdrawn and placed on the calendar. (30th, p. 1226.)

§ 1517. Bill relating to the appointment of bailiffs pending, Mr. Canales raised the point of order that, under the rules, bills embracing platform demands should take precedence over other bills and that this bill, not embracing platform demand, should be set aside for the present.

Sustained. (30th, called, p. 172.)

§ 1518. *Bills enacting platform recommendations may be made special order.* (33rd, p. 9027.)

Bank guaranty bill pending.

Mr. Terrell of Bexar raised a point of order on further consideration of the bill on the ground that the bill is not a platform demand, because the question was not submitted to the people in a primary, under Section 120 of the Terrell election law, as passed by the Thirtieth Legislature, which provides: "Any political party in this State in convention assembled shall never place in the platform or resolutions of the party they represent any demand for specific legislation on any subject, unless the demand for such specific legislation shall have been submitted to a direct vote of the people and shall have been endorsed by a majority of all the votes cast in the primary election of such party."

The Speaker (Mr. Kennedy) overruled the point of order, giving the following reasons:

Section 2, Rule 22, says that all bills relating to State platform demands shall have precedence over all other bills except the general appropriation bill, and all bills except on suspension day, Senate bill day and local bill night.

When this bill was placed before the House last Friday, it was not suspension day, it was not local bill night, nor Senate bill day, and it is still before the House, the regular order not having been suspended.

The Chair has a certified copy of the platform adopted at San Antonio, over the signature of the secretary of the convention. Plank 6 reads : "In harmony with the national Democratic platform pledging the party to legislation for a guaranty of national bank deposits, we favor the proper establishment of a system under the protection and control of the State for the guarantee for the deposits of the State banks of Texas."

The Chair holds that any resolution or any demand or any statement by the San Antonio convention declaring for anything or against legislation is specific instructions to the Democrats of this Legislature. As to how any man may vote upon this question is immaterial.

If the law quoted by the gentleman from Bexar is a legal authority and is proper and right, the San Antonio convention violated it by adopting this platform, and we are not violating it by obeying the expressed will of the Democratic party at San Antonio.

Mr. Terrell of Bexar appealed from the ruling of the Chair.

The Chair was sustained—yeas, 93; nays, 22. (31st, p. 558.)

POINTS OF ORDER.

§ 1519. Resolution pending: "That Hon. J. S. Hogg be invited to use Representative Hall for the delivery of such address on next Tuesday night, or on any earlier night that he shall indicate."

Amendment by Mr. Garner: "Amend by striking out 'use Representative Hall' and insert 'address the joint committee of the House and Senate on constitutional amendments.' "

Mr. Aldrich raised the point of order that the amendment by Mr. Garner was not germane to the resolution.

The Chair held that the point of order could not be entertained at this proceeding. (27th, p. 297.)

(Note.—This ruling is wrong. A point of order is always in order. The Garner amendment was certainly not germane, because the original purpose was to tender the Hall of the House to Governor Hogg, while the amendment sought to have Governor Hogg address a joint committee of the two houses.—Editor.)

§ 1520. *Having fixed an hour to hear a public address, and the orator having accepted, it was not in order to designate some other order of business for that hour.*

Mr. Strickland raised a point of order on consideration of that part of a resolution offered by Mr. Reedy providing for a session of the House tonight, on the ground that the House had invited Mr. J. E. Grinstead of Kerrville to address them tonight at 8 o'clock, and that Mr. Grinstead had accepted; therefore the House, having disposed of the time, cannot pass a resolution to do something else at that time.

Sustained. (31st, p. 618.)

POSTPONEMENT.

§ 1521. Pending consideration of the various reports of the Bailey investigating committee, Mr. Duncan offered a written motion calling for the printing of 200 copies of the report and the proceedings of the committee and moved that all action by the House on the report of the committee be deferred until such printing could be done.

Mr. Love of Williamson raised a point of order on consideration of the motion submitted by Mr. Duncan, on the ground that the question before the House should be the adoption of the majority report.

The Speaker overruled the point of order, stating that the motion was in the nature of a motion to postpone, and, therefore, it would take precedence. (30th, p. 676.)

PREVIOUS QUESTION.

§ 1522. The previous question is used whenever it is decided to close the debate and bring the pending motion or motions or bill or resolution to a direct vote. The motion must be seconded by twenty-five members and must be ordered by a majority vote of those present and voting. It is in order at any time any member can get recognition from the Speaker, unless there has been a unanimous agreement by which the debate is to continue for a definite time and then, of course, it cannot be moved except by unanimous consent until the time has expired. It may be ordered upon any single motion or series of motions allowable under the rules or one amendment or amendments including the bill or resolution. In other words, all the allowable motions that are pending are subject to the previous question and after it has been ordered

there shall be no debate except that the mover of the proposition or the member making the report from the committee or, in the absence of both of them, any other member designated by such absentee shall have the right to close the debate, after which the vote shall be immediately taken on the amendment or amendments, if any, and then on the main question. There shall be no debate on incidental questions of order, whether on appeal or otherwise. Where the previous question is ordered on the motion to postpone indefinitely or to strike out the enacting clause of a pending bill, the member entitled to the floor, as above indicated, shall have the right to close the debate on the original proposition, after which the member moving to postpone or to strike out the enacting clause shall be allowed to close the debate on his motion. Except in the absence of a quorum, no motion for an adjournment or recess shall be in order after the previous question is seconded, until the final vote upon the main question is taken, after the previous question is ordered. The previous question cannot be laid on the table, but may be reconsidered after the motion is made before any part of it has been executed. That is to say, if there are two pending amendments to a bill, a vote having been taken on one of them after the previous question is ordered, the motion to reconsider the previous question will not be in order. In closing the debate under the previous question, each speaker shall be entitled to twenty minutes.

PREVIOUS QUESTION—AMENDMENT.

(Rule 13.)

§ 1523. *By consent or by agreement, an amendment may be offered after the previous question has been ordered.*

To an amendment, Mr. Wheless raised the point of order that the amendment was not in order, for the reason that it had been withdrawn and that it was not in order to offer it after the previous question had been moved and ordered.

The Speaker overruled the point of order and stated that the amendment had been offered as a substitute for the amendment by Mr. Powell, and held out of order at that time as not being germane to the amendment, but that it would be entertained later.

In the meantime the previous question had been moved and ordered, but with the understanding by the mover that the

amendment by Mr. Shannon was before the House. (26th, p. 1018.)

§ 1524. *The House, by passing a bill upon the previous question which had been seconded but which had not been ordered because of the failure of the Chair to put the question, ratifies the action of the Chair.*

The previous question was seconded, but not ordered, because the Chair failed to put the question, whereupon Mr. Morrow raised the point of order that after the motion for the previous question had been seconded, the Speaker did not put the question on ordering the previous question, and that the House should have an opportunity of voting on that question before the bill is passed to a third reading.

The Speaker overruled the point of order and stated that the Chair acknowledged the omission, but that the House had ratified the seconding of the previous question by passing the bill to a third reading by a decisive majority, and that the Chair would consider the action final.

There was no appeal from the decision of the Chair. (27th, p. 221.)

§ 1525. *Previous question must be confined to motions actually before the House.*

Mr. Smith moved the previous question on engrossment of the bill and asked unanimous consent of the House to include in this motion for the previous question all the amendments which the members may choose to send up at this time.

Mr. Hodges objected and raised the point of order that such a motion for the previous question could not be entertained.

Sustained. (28th, p. 792.)

§ 1526. *Cannot adjourn under the previous question.*

The previous question having been ordered, a motion to adjourn was made.

Mr. Rice raised a point of order on the motion that same is not in order until the vote on which the main question is ordered is concluded.

The Chair (Mr. Glenn) sustained the point of order. (29th, called, p. 68.)

§ 1527. *The House having ordered the consideration of the appropriation bill by departments, the previous question could not be ordered on the engrossment of the bill without rescinding the order or completing the consideration of the bill.*

During the consideration of the appropriation bill, the House had ordered that it be considered by departments, and while the House was considering public health and vital statistics, Mr. Dodd moved the previous question on the engrossment of the bill.

Mr. Rice raised a point of order on the motion on the ground that the House had passed an order to consider the bill by departments, and that said order must first be rescinded.

Sustained. (29th, called, p. 121.)

§ 1528. *The fact that there has not been a free and full discussion of a matter does not prevent the asking of the previous question.*

Mr. Kennedy raised a point of order on the motion for the previous question, stating that inasmuch as the rules provided that full and free discussion should be allowed on all questions, and that, as this resolution had just been offered and had not received consideration in the House, the Chair should not entertain the motion for the previous question.

Overruled. (30th, p. 104.)

§ 1529. *No motion is in order while the House is operating under the previous question.*

Mr. Wilmeth moved to reconsider the vote by which an amendment was adopted under the previous question.

Mr. Canales raised a point of order on consideration of the motion to reconsider on the ground that the House is now acting under the previous question, and that no motion is in order until the main question is disposed of.

Sustained. (30th, p. 317.)

PUBLICATION OF NOTICE.

§ 1530. *Section 57, Article III, of the Constitution says that*

"No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such

notice having been published shall be exhibited in the Legislature before such act shall be passed."

It has been held in effect by the courts that the certification of the passage of bills by the proper officers carries with it the presumption that all requirements of the Constitution as to the passage of bills have been complied with.

§ 1531. The Dallas city charter bill pending, Mr. Pitts raised the point of order that, this being a local bill and special law, the necessary legal notice required by the Constitution had not been given, that the public notice required by the Constitution and rules governing special laws intended as a compliance with the law did not give the substance of the proposed bill as required, and cited the alleged notice, which was in substance that said charter was to be a special act of the Legislature to contain all the powers, rights and liabilities which it now has subject to such amendments as may by such Legislature be made, together with such other powers, rights and liabilities that said Legislature may see fit and proper and just.

The Speaker held the point of order not well taken. (26th, p. 851.)

Mr. Wooten rose to a point of order and said:

"Mr. Speaker: I raise the point of order that this bill is a local bill, as recognized by its authors in giving notice by advertisement, and it affects every locality through which any and all of Collis P. Huntington's railroads pass. Therefore it ought to have been advertised in every locality affected by the proposed law, which has not been done. The notice has only been published in Galveston, whereas it ought to have been advertised in all the towns and counties whose railroad connections are affected by the Huntington wharves."

The Speaker held the point of order not well taken. (26th, p. 949.)

Mr. Moran raised the point of order that, as the Speaker had already ruled that this is a local bill (the Galveston grade-raising bill), it is not proper to consider it, for the reason that the published notice which has already been exhibited to the House is not sufficient compliance with the Constitution to cover the subject matter of this bill; therefore the bill stands before the House as if no notice had been given.

Overruled. (27th, p. 1124.)

§ 1532. Mr. Murray raised the point of order that the bill proposes to enact a special law and that the notice required by the Constitution, Article III, Section 57, had not been published as required by said section of the Constitution.

The Speaker overruled the point of order, and stated that it was not within the province of the Chair to pass upon a constitutional question, but would leave it for the House to pass upon.

There was no appeal from the ruling of the Chair. (27th, p. 507.)

§ 1533. Pending was the bill, "An Act to aid the city of Galveston in elevating and raising said city, so as to protect it from calamitous overflows, by donating and granting to it the State ad valorem and part of the occupation and poll taxes collected upon property and from persons in said city, for a period of fifteen years, and to provide a penalty for their misapplication."

Mr. Moran then raised a point of order and said:

"Then, Mr. Speaker, I make the point of order that this is a local or special law, and that the proposed notice, as read, does not refer to nor contemplate the provisions of this bill, and that there has been no notice given as required by the Constitution, in Section 57, Article III."

The Speaker, in ruling, stated as follows:

"The Chair holds that it is not within the province of the Chair to determine the constitutionality of a bill, because that is a judicial function. The duties of the Chair are covered by the responsibility of seeing that legislative proceedings are carried on in a parliamentary manner under the rules governing same. To determine whether or not a bill is constitutional involves judicial scrutiny and construction which are vested in the House, and subsequently in the courts, and not in a presiding officer; and therefore the Chair declines to decide questions involving legal construction, but confines himself to deciding points of order which involve parliamentary proceedings." (27th, p. 1076.)

RECESS.

§ 1534. *A recess cannot be had when a quorum is not present.*

Mr. Brelsford moved that the House take a recess to 10

o'clock a. m. next Monday, upon which motion yeas and nays were demanded.

While the Clerk was proceeding with the roll call, Mr. Hendricks raised a point of order on consideration of the motion, stating that the last roll call having developed the want of a quorum, a motion for a recess is not in order, but that it is in order to entertain a motion to adjourn.

Sustained. (28th, called, p. 92.)

§ 1535. *The House having recessed does not displace the business of the day; nor does it require the consideration of postponed or special orders set for the calendar day to which the House recessed.*

Mr. Gilmore raised a point of order on further consideration of the bill at this time, for the reason that the House should take up House Joint Resolution No. 10, the same having been postponed on last Friday until Tuesday, March 2, at 2 o'clock p. m.

The Speaker overruled the point of order, stating that the House having recessed on yesterday until today, the present proceedings are a continuation of Monday's session of the House. (31st, p. 676.)

RECONSIDERATION.

§ 1536. When any motion has been carried or lost, any member who voted with the prevailing side may on that day or the next sitting day before the order of the day is taken up move to reconsider the vote by which the proposition was carried or lost. If the motion is not disposed of when made its is spread upon the Journal, but cannot be called up after that legislative day without one day's notice having been given. However, all motions to reconsider during the last three days of the session must be disposed of when made. A motion to reconsider cannot be withdrawn, but may be called up by any member. If a motion to reconsider is not disposed of when made upon an amendment or other incidental matters it is regarded as determined and lost upon the final vote upon the main question.

§ 1537. The motion cannot be entertained during the absence of a quorum when the vote proposed to be reconsidered requires a quorum, but on votes incidental to a call of the House it may be entertained, although a quorum is not present.

§ 1538. The mover of a proposition is entitled to first recognition to reconsider. The practice is that where a bill is passed, the person having the bill in charge makes the motion to reconsider and to lay the motion on the table, or if the bill is defeated, its leading opponent makes a similar motion. The effect of these motions is to prevent further discussion or delay on motions to reconsider. Sometimes, especially where a two-thirds vote is necessary to carry the proposition, some member who favors the measure votes in the negative that he may move to reconsider the motion, which is spread upon the Journal, to be called up at a more favorable time. Again, this method is resorted to by persons who are really opposed to bills, but vote for them in order to move to reconsider and await a more favorable opportunity for defeating the proposition. On a yea and nay vote only those who are recorded as voting with the prevailing side are entitled to make the motion to reconsider. In case of a tie vote, a proposition is lost and therefore only those who voted against the proposition can make the motion to reconsider.

§ 1539. Where it requires a two-thirds vote to carry a proposition, those who voted in the negative, if the proposition fails to receive the necessary two-thirds vote, are the only ones who can make the motion to reconsider. But where there is no roll call, any member present and voting may make the motion to reconsider, but a member who was absent or who was paired in favor of the prevailing side and did not vote cannot make the motion.

§ 1540. The Congressional practice is that the motion to reconsider may be made after the previous question has been ordered, but such is not the case in the House, as our rules prohibit the making of any motion after the previous question has been made, except, of course, a motion to reconsider the ordering of the previous question which cannot be made after the previous question has been partially executed. That is, if there are several amendments pending and the previous question is ordered on the amendments and the main proposition and one of the amendments has been voted upon the previous question cannot be reconsidered, but the House must proceed under it. It has been held in Congress that after a conference has been agreed to and the managers for the House have been appointed it is too late to move to reconsider the vote whereby the House acted on the amendments

in disagreement. While the motion to reconsider can be made at any time, subject only to the limitations herein named, yet it may not be considered while another question is before the House.

§ 1541. Although a bill may have gone to the other house or to the Governor, or the fact that the House has informed the Senate that it has agreed to Senate amendments to a House bill, the motion to reconsider may be made if made within the time prescribed by the rules. In such cases the procedure is to advise the Senate or the Governor, as the case may be, that a motion is pending to reconsider and a request is made that the bill be returned for further consideration.

§ 1542. The vote by which the previous question was ordered can only be reconsidered one time and, as previously stated, the motion to reconsider cannot be applied to a motion for the previous question which has been partially executed.

§ 1543. A motion to reconsider cannot be applied to a negative vote on adjournment, for recess, or the question of consideration, or suspension of the rules.

§ 1544. A motion to reconsider having prevailed and the vote again being taken on the proposition, another motion to reconsider is not in order unless the nature of the proposition has been changed by amendments.

§ 1545. The effect of a motion to reconsider is to suspend the original proposition or, in other words, to hold the matter in abeyance pending the further pleasure of the House. However, should the Legislature adjourn finally, leaving undisposed of a motion to reconsider, and the bill, by oversight, should be enrolled, properly signed by the presiding officers of the two houses and approved by the Governor, it would undoubtedely become a law, although a motion to reconsider the vote by which it was finally passed remained undisposed of.

§ 1546. When a motion to reconsider is carried, the question immediately recurs on the proposition reconsidered, and when a vote adopting an amendment is reconsidered the amendment simply becomes the pending amendment.

§ 1547. A motion to reconsider is not debatable unless the proposition upon which the motion to reconsider is made is debatable.

§ 1548. *If the House, while a motion to reconsider is upon the Journal, takes up and passes a bill, that disposes of the motion to reconsider.*

§ 1549. *A bill may be taken up and considered on final passage nothwithstanding a motion to reconsider has been put on the Journal and not acted upon.*

Mr. Henderson of Lamar then raised the point of order that it is not proper to take up a bill and consider it on its third reading and final passage while a motion to reconsider the vote by which it passed the third reading is on the Journal and not disposed of.

Overruled. (26th, p. 755.)

§ 1550. *Notice to call up a motion to reconsider must be given as required by the Rule.*

An effort was made to call up a motion to reconsider.

Mr. Kennedy raised a point of order that notice of intention to call up a motion to reconsider as required by the rules had not been given, and that, therefore, the motion to reconsider cannot be called up until proper notice is given.

Sustained. (26th, p. 755.)

§ 1551. *The ordering of the main question can be reconsidered.*

Mr. Bridgers, by consent, moved to reconsider the vote by which the House had ordered the main question.

Mr. Powell raised the point that it was not in order to entertain a motion to reconsider a vote ordering the main question, and stated that House Rule No. 46 is plain and precludes any motion whatever, and that House Rule No. 55 so shows.

Overruled.

Mr. Lane appealed from the ruling of the Chair, and the House sustained the Chair. (26th, p. 1220.)

§ 1552. The House had adopted a resolution providing for the election of its officers, among them a Chaplain. All of the officers preceding the Chaplain had been elected, and when that office was reached Mr. Dean offered a resolution to accept an offer made by the pastors of Austin to perform the duties of Chaplain of the House without cost and to "dispense with the office of Chaplain."

Mr. Henderson of Lamar, joined by Mr. Kennedy of Limestone, raised a point of order that the resolution sought to

change the order of business established by a resolution of the House, which could be done only by a two-thirds affirmative vote; and furthermore, that after disposing of a portion of the resolution, a motion to rescind would first have to prevail; therefore the resolution was out of order.

Overruled.

But the House tabled the resolution. (27th, p. 11.)

§ 1553. Mr. Hogsett raised the point of order that a second motion to reconsider was not in order, and that the former action on the bill should be considered final.

The Speaker overruled the point of order and stated that inasmuch as the House had made some progress on the bill after its first reconsideration, the latter motion to reconsider was in order. (27th, p. 278.)

(Note.—The Journal shows that both Mr. Hogsett and the Speaker were mistaken; i. e., the bill was in the possession of the Senate when the first motion to reconsider was made; hence that act was void.—Editor.)

§ 1554. *Member must have voted with the prevailing side or he cannot move reconsideration.*

Mr. Calvin raised the point of order on the motion made by Mr. Duff, stating that under the rules of the House the motion is not in order, the gentleman from Jefferson having voted with the minority, as shown by the roll call.

Sustained. (28th, p. 407.)

§ 1555. *During the last three days of the session all motions to reconsider must be disposed of when made.*

Mr. Love called up a motion to reconsider that had been laid on the table subject to call.

Mr. Napier raised the point of order on consideration of a motion to reconsider, stating that under said rule a motion made during the last three days of the session must be disposed of when made.

Sustained.

Mr. Duff spoke to the point of order and appealed from the ruling of the Chair.

The House sustained the ruling of the Chair. (28th, p. 1160.)

§ 1556. *The House having fixed the number of clerks, a resolution to appoint five additional clerks is not in effect a reconsideration of the original resolution.*

Mr. Witcher offered a resolution reciting that, whereas, the clerks that have been discharged were discharged without any chance whatever to hold their positions and that the resolution was not carried out as passed by the House; and as it is now it casts a reflection upon the ones who were efficient and faithful, therefore be it resolved that the Speaker be and he is hereby authorized to appoint five additional clerks to serve this House during this called session.

The resolution was read a second time.

Mr. Moran raised a point of order on consideration of the resolution stating that it was in the nature of a reconsideration of the vote on the resolution adopted yesterday, relative to committee clerks, and therefore should not be entertained.

Overruled. (28th, called, p. 25.)

§ 1557. *The previous question will not apply to a motion to reconsider and table.*

A bill was passed under the previous question. The vote by which it passed was reconsidered, and pending the vote after reconsideration, a motion was made to adjourn.

Mr. Brelsford raised a point of order on the motion to adjourn, stating that the House acting under the previous question, it is not in order to entertain a motion to adjourn until the previous question is exhausted.

The Chair overruled the point of order, stating that the previous question extended no further than the final passage of the bill, and could not operate on motion subsequently made, as in this case, the motion to reconsider and table, which, furthermore, being undebatable, cannot take the previous question under any circumstances. (29th, p. 169.)

§ 1558. *If a bill be reconsidered and amended and passed, it can again be reconsidered.*

Mr. Kennedy raised a point of order on the ground that one reconsideration of the bill was had and the bill lost.

The Chair overruled the point of order, stating that the bill was amended on its reconsideration, and therefore, under the rules, is subject to a motion to reconsider. (29th, p. 1071.)

§ 1559. *When a motion to reconsider is put and carried, the proposition which is reconsidered becomes the pending business.*

During the morning call, while the House was under the head of "Routine Motions," the vote by which an amendment was adopted was reconsidered.

Mr. McKenzie raised a point of order on consideration of the pending amendment and substitute therefor on the ground that the order of business before the House is "Routine Motions," and the motion to reconsider being of that nature and having been disposed of, it is not in order to consider the amendment, said consideration being in effect to bring up the whole bill before the House.

Overruled. (30th, called, p. 135.)

§ 1560. *The fact that when a Senate bill finally passes the House, after having been amended by the House, and that a motion to reconsider the vote by which the bill finally passed was laid on the table, does not stop the House from receding from its amendments to the bill.*

Mr. Brown of Wharton raised a point of order that neither motion is now in order, for the reason that when the bill passed the House the vote by which the bill passed was reconsidered and tabled, and that it is not now in order to take it up again.

Overruled. (30th, called, p. 390.)

§ 1561. *The author of a proposition should not be permitted to move a reconsideration if the motion is lost, unless the record shows affirmatively that he voted against the measure.*

Mr. Jennings raised a point of order on the motion to reconsider on the ground that Mr. Ray, being the author of the substitute, it is not in order for him to move to reconsider the vote by which the same was lost.

Sustained.

§ 1562. *To make a motion to reconsider, one must have voted with the prevailing side.*

Mr. Johnson, having voted for a motion which was lost, moved for a reconsideration.

Mr. Standifer raised a point of order on consideration of the motion to reconsider on the ground that the gentleman from Galveston (Mr. Johnson) could not make a motion to reconsider, for the reason that he voted with the losing side.

Sustained. (31st, p. 906.)

§ 1563. *Not in order under previous question.*

A motion to reconsider is not in order when the House is acting under the previous question. (33rd, p. 834.)

§ 1564. *It is not in order to amend a motion to reconsider.*

Mr. Stamps moved to reconsider the vote by which House concurrent resolution was adopted. Mr. Campbell offered an amendment to the motion to reconsider.

Mr. Kennedy raised a point of order on consideration of the amendment on the ground that it is not in order to amend a motion to reconsider.

Sustained. (32nd, p. 153.)

§ 1565. *A motion to reconsider must be made within the time prescribed by the Rules.*

Mr. Elliott moved to reconsider the vote by which the House, on last Saturday, refused to pass House Joint Resolution No. 5 to engrossment, and asked to have the motion to reconsider spread on the Journal.

Mr. Kennedy raised a point of order on consideration of the motion to reconsider on the ground that the time allowed under the rules of the House for consideration of the motion had expired.

Sustained. (32nd, pp. 924-5.)

§ 1566. *Only those who voted on prevailing side of a question can move to reconsider.*

Mr. Stevens moved to reconsider the vote by which Senate bill No. 247 was passed, whereupon Mr. Hamilton of Childress raised a point of order, stating that Mr. Stevens voted with the losing side, and after reference to the record, which sustained the statement, the point of order was held well taken. (32nd, p. 1325.)

REFERENDUM AMENDMENTS.

§ 1567. One of the perplexing questions that sometimes confronts the House is that of attaching referendum amendments to pending bills. By this is meant to amend a bill so that it will not take effect until it has been approvel by the voters of the State at an election held for that purpose. The opposition to such amendments is usually based on constitutional grounds; that is, the contention is made that to provide by an amendment that a bill shall not take effect until it has been endorsed by a majority vote is antagonistic to our organic law. Court opinions, like the practice in the House, are conflicting. In the Thirty-second Legislature, Speaker Rayburn permitted the consideration of such an amendment.

§ 1568. In the Thirty-third Legislature, Speaker Terrell

declined to rule on a referendum amendment offered to the "full crew" bill. He submitted the question to the House, which decided almost unanimously that such an amendment was unconstitutional and not "germane," but later on considered and adopted a referendum amendment to the compulsory education bill. The question is a constitutional one, and we believe that where there is a doubt as to the constitutionality of a question it should be left to the courts to decide.

RESCINDING.

§ 1569. Mr. Childs raised the point of order that a motion to rescind is out of order, as it would virtually abrogate Rule 36 (now Rule 14) of this House, which provides for the reconsideration of all matters adopted by the House, and that the motion must be made by a member of the majority or prevailing side, and must be made on the same or the next sitting day, and that one day's notice must be given before the motion can be called up and disposed of. This motion to rescind is but another method of reconsideration, and is now made by the party voting with the losing side, and several days after the House adopted the amendment which he proposes to rescind. It establishes a dangerous precedent.

The Speaker stated that as the Chair was in doubt, he would not rule upon the point of order, but would let the matter be submitted to the House to decide.

And the House rescinded by vote of 57 to 46. (26th, p. 689.)

§ 1570. *Motion to rescind not in order when the motion to reconsider the vote by which the proposition was adopted was tabled.*

Mr. Murray of Wilson moved that the vote whereby the pages were all discharged be rescinded.

Mr. Middlebrook raised a point of order on the motion to rescind, stating that it is in the nature of a motion to reconsider and, therefore, is not in order, since the vote by which the resolution was adopted was reconsidered and tabled.

Sustained. (28th, p. 21.)

§ 1571. *House never loses its control over its rules.*

Mr. Marsh raised the point of order that a motion to rescind being in the nature of a motion to reconsider and that as the vote by which the resolution was adopted had been recon-

sidered and tabled, the motion to rescind is not in order and should not be entertained by the Chair.

The Speaker overruled the point of order and in making the ruling said:

"The Chair holds that the motion to rescind is in order. The House never loses control over its rules, standing or special orders, and the management of its business, and can at any time rescind its orders and rules concerning same. The tabling of a motion to reconsider the vote by which such rule or order was adopted or fixed does not take away the control of the House over such matters, which by their very nature are continuing in effect and subject to change whenever the policy of the House may change in regard to them." (29th, p. 26.)

Mr. Moran raised the point of order that as the substitute opens up the whole question, it is essentially the same as a motion to reconsider and should not be entertained, for the reason that it would have the tendency to abrogate the force and effect of the motion to reconsider and table, since the vote by which the resolution was adopted had been reconsidered and tabled.

The Speaker overruled the point of order, making substantially the same statement as in the foregoing ruling. (29th, p. 26.)

§ 1572. *If it is desired to recede from the adoption of a free conference committee report, the proper motion is to "rescind" and not to "reconsider."*

Mr. Byrne having made a motion to reconsider the vote by which the House adopted the report of a free conference committee, Mr. Robertson of Bell raised a point of order on consideration of the motion to reconsider the vote by which the bill was passed, stating that the proper motion is to rescind the vote by which the report of the free conference committee was adopted.

Sustained. (31st, p. 710.)

RESOLUTIONS.

(Rules 16-18 and 21.)

§ 1573. *Because a resolution or bill is similar to any other bill or resolution pending does not prevent its consideration.*

Mr. Kennedy offered a resolution that the House take a

recess from next Wednesday afternoon until Friday morning at 9:30.

Mr. Childs raised the point that the resolution is not in order, for the reason that a similar resolution is now pending in the House, and this should not be entertained until the other is disposed of.

Overruled. (26th, p. 383.)

§ 1574. *House cannot by simple resolution rescind its acts in adopting a concurrent resolution.*

The House had adopted a Senate resolution to adjourn, and a simple resolution was pending, rescinding said action and asking the Senate to return said concurrent resolution.

Mr. Clements raised the point of order that the resolution being a simple resolution and proposing to rescind the action of the House adopting a concurrent resolution, it is therefore not in order.

Sustained. (27th, p. 990.)

§ 1575. *Resolutions can only be considered during the time set apart for their consideration.*

The house resumed consideration of the pending question, same being, Shall Senate Concurrent Resolution No. 1 pass?

Mr. Moran raised a point of order on further consideration of the resolution, stating that the time allotted (one-half hour) under the rules for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, called, p. 49.)

(Note.—Rule 21 provides that resolutions filed with the Clerk and resolutions offered from the floor shall be considered for half an hour unless sooner disposed of. The points of order made on this plain rule are simply too numerous to mention here.—Editor.)

§ 1576. *Rules may be suspended for the consideration of a resolution.*

It being Monday, Mr. Duncan moved to suspend the rules relative to the consideration of resolutions that he might offer a resolution.

Mr. Hamilton raised a point of order on the motion for the reason that the Duncan resolution did not come within the meaning of the rule.

Overruled. (30th, p. 167.)

§ 1577. *A resolution having been read once under a suspension of the rules, it is within the province of the House to have it read a second time.*

Mr. Baskin raised a point of order on consideration of the motion for a second reading of the resolution offered under a suspension of the rules and stated that it should not be entertained for the reason that the rules had been suspended simply for the purpose of having the resolution read the first time.

The Speaker overruled the point of order and stated that it was entirely within the province of the House to have the resolution read second time if it so desired. (30th, p. 168.)

§ 1578. *A resolution may be withdrawn at the pleasure of the author.*

Mr. Cobbs then withdrew the resolution from further consideration of the House.

Mr. Jenkins raised a point of order on the withdrawal of the resolution, stating that the resolution is the property of the House and should not be withdrawn without the consent of the House.

The Speaker overruled the point of order and, on appeal, the House sustained the Chair. (30th, p. 170.)

§ 1579. *A resolution expressing thanks for courtesies shown the members of the House is in order regardless of the fact that many members did not participate in the courtesies.*

To a resolution expressing thanks to the people of Fort Worth and Gainesville for courtesies shown the membership while on an excursion to said cities, Mr. Bogard raised a point of order on the ground that it carried the presumption that the whole House went on the excusion to Fort Worth, and Gainesville also, when in fact many did not go.

Overruled. (30th, p. 1088.)

§ 1580. *For good and sufficient reasons, the House may criticise a former member of the House, and a resolution to that effect was held to be in order.*

A sarcastic resolution answering the criticisms of a former member of the House was offered.

Mr. Cobbs raised the point of order on consideration of the resolution, stating that the Chair should hold it out of order for the reason that it is not a proper matter for consideration

of the House, and that it is not in good taste to have the same placed upon the record.

Overruled. (30th, called, p. 28.)

§ 1581. *A resolution offered by unanimous consent must be read first time.*

Mr. Bryan having obtained unanimous consent to offer a resolution and the Clerk was reading the resolution, Mr. McConnell obtained the floor, rising to a point of order, and moved that further reading be suspended. Mr. Carswell moved to lay the motion on the table, whereupon the point of order was made that, the resolution being offered by unanimous consent, the reading should be concluded without interruption, which was sustained, and the Clerk proceeded to read the resolution. (30th, called, p. 261.)

§ 1582. *Resolution covering the same matter as one previously voted down is not in order.*

A resolution providing for the election of warrant clerk pending, Mr. Gaines raised a point of order on consideration of the resolution for the reason that the House had already voted down a resolution covering the same subject matter.

Sustained. (31st, p. 70.)

§ 1583. *On Senate day the consideration of no bill is in order until Senate bills or Senate resolutions have been disposed of.*

The House was considering a simple resolution on Senate bill day.

Mr. Gaines raised a point of order on further consideration of the resolution on the ground that the resolution was postponed until Wednesday, and Wednesday being Senate bill day, the Senate bills have precedence of any postponed matter and, therefore, objection being made, it is out of order to consider any postponed matter other than Senate bills.

The Speaker held the point of order well taken. (31st, p. 587.)

§ 1584. *Resolution requesting the Attorney General to do certain things in order.*

A resolution pending requiring the Attorney General to investigate the books of certain electric companies and report back to the Legislature at his earliest convenience, Mr. McDaniel raised the point of order that the resolution and amendment is out of order for the reason that the resolution

seeks to impose a duty upon the Attorney General's Department and should be done by bill duly referred to a committee, and further that it is an act by the Legislature imposed upon the Executive Department.

Overruled. (32nd, p. 139.)

§ 1585. *A resolution to permit a member to select page not in order after House authorizes Speaker to appoint.*

The House having adopted a resolution providing for the appointment by the Speaker of a certain number of pages, a resolution was offered by Mr. Baker providing that the Speaker be requested to appoint a page to attend Hon. W. S. Stepter, said page to be included in the total number of pages, to be chosen by Mr. Stepter.

Held not in order. (32nd, p. 72.)

§ 1586. *Resolution to permit Hall of Representatives to be used for private purposes not in order.*

A resolution having been offered in the House providing for an adjournment that the Hall might be prepared for an inaugural ball, Mr. Nickels raised a point of order against the motion to adjourn made by the gentleman from Travis (Mr. Robertson) because the same contravenes the terms of Article 3829 of the Revised Statutes, for the reason that it contemplates the use of this hall for a private purpose."

Sustained. (32nd, p. 132.)

§ 1587. *House cannot, by simple resolution, dispose of property (i. e., records, books, papers, etc.) belonging to the State.*

Mr. Cox of Rockwall offered the following resolution:

Whereas, The appropriation bill recently passed by both houses of the Legislature carries an appropriation in the Comptroller's Department for the sum of three thousand dollars ($3000) "for clearing up basement, indexing records, for filing same, and purchase of shelving, to be used in two years," the purpose of said appropriation being to properly care for and preserve the records of the State of Texas prior to its admission into the Federal Union, December 29, 1845; and,

Whereas, The basement of the Capitol building where these records are now stored is inaccessible and inconvenient to the public, who might be interested in reading and examining these historical documents; therefore be it

Resolved by the House of Representatives, That the Comptroller of Public Accounts be, and he is hereby, authorized

to turn over to the Librarian for future care and preservation all books, papers, letters and documents of historical value dated prior to the day upon which Texas was admitted into the Federal Union, and when these records have been selected, assorted and indexed by the Comptroller, the State Librarian is hereby directed to take charge of the same and properly prepare and arrange them for future reference.

Mr. Kennedy raised a point of order on further consideration of the resolution on the ground that the authority sought to be conferred cannot be given by the House by simple resolution.

Sustained. (32nd, 1st called, p. 480.)

RESOLUTIONS—HALF HOUR.

(Rule 22, Section 1, Paragraph 5.)

§ 1588. *Instance where it was held that resolutions could not be taken from the Speaker's table except during hour set apart for consideration of resolutions.*

March 5, 1901, Mr. Ragland asked to have taken from the Speaker's table and laid before the House for consideration the Phillips resolution inviting Mrs. Carrie Nation of Kansas to address the House. (This resolution was introduced on February 26th, and had gone to the Speaker's table.) Whereupon, Mr. Walker raised the point of order that the time for consideration of resolutions had expired.

Sustained. (27th, p. 586.)

§ 1589. *A resolution for a committee of the House to visit those sections of the State where the public school lands were located for the purpose of investigating the conditions of the land situation as between the actual settler and the cowman, making report to the House of such conditions, was held to come within the half hour rule.*

Mr. Isaacks raised the point of order on its further consideration at this time, stating that the time allotted under the rules for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, p. 703.)

Pending consideration of a resolution, Mr. Shannon raised a point of order on its further consideration today, stating that the time allotted under the rules for consideration of resolutions had expired.

Point of order was sustained and the resolution went back to the Speaker's table. (28th, called, p. 69.)

§ 1590. *Does a resolution requiring conference committee to do certain things come within the half hour rule?*

Mr. Green offered a resolution requesting the free conference committee on appropriations to itemize the appropriation bill.

Pending consideration of the resolution, Mr. Hancock raised a point of order on further consideration of the resolution at this time, stating that the time allotted under the rules for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, called, p. 185.)

§ 1591. *A resolution having gone to the Speaker's table is not subject to half hour rule.*

Mr. Kennedy raised the point of order that the half hour allotted under the rules for consideration of resolutions had expired, and that the resolution should go over.

The Chair overruled the point of order, holding that, the resolution having gone to the Speaker's table yesterday, it occupied the same position as other matters on the Speaker's table, and was subject to consideration until disposed of. (29th, p. 187.)

§ 1592. *Resolution providing for the investigation of United States Senator Bailey comes within half hour rule.*

Mr. Kennedy then raised a point of order on further consideration of the resolution at this time, on the ground that the half hour set aside under the rules for consideration of resolutions had expired.

The Chair sustained the point of order, and the resolution went to the Speaker's table. (30th, p. 40.)

§ 1593. *Instance where it was held that resolutions could not be entertained by unanimous consent except during the half hour.*

The Chair had, by unanimous consent, permitted the introduction of several resolutions after the half hour had expired, whereupon Mr. Kennedy raised the point of order that the time set aside by the rules for consideration of resolutions had expired, and that the Chair should not entertain another resolution.

Sustained. (30th, p. 92.)

§ 1594. *Instance where a resolution seeking information for the House pertaining to a pending special order was held to come within the rule.*

A resolution requesting the Attorney General to furnish papers, letters and books tending to throw any light upon questions arising upon a resolution for investigation pending as a special order in the House in regard to the relations between Senator Bailey and the Waters-Pierce Oil Company was pending.

Mr. Kennedy at this juncture raised the point of order that the time set aside under the rules for consideration of resolutions had expired and that the Chair should not entertain resolutions any further.

Sustained. (30th, p. 108.)

§ 1595. *Half hour for resolutions may be extended.*

Mr. Duncan offered a resolution during the consideration of which Mr. Camp raised the point of order that the time allotted for the consideration of resolutions had been consumed and that the resolution should go over until tomorrow.

Sustained.

Mr. Kennedy then moved that the time for consideration of resolutions be extended for thirty minutes, which motion prevailed. (30th, p. 137.)

§ 1596. *Held that a resolution on the Speaker's table is subject to the half hour rule.*

A resolution relating to platform demands, read on the 5th day of April, 1905, went to the Speaker's table, and on the 9th day of April, pending its consideration, Mr. Ray raised a point of order on further consideration of the resolution at this time on the ground that the time set apart under the rules for consideration of resolutions had expired.

The Speaker sustained the point of order, and the resolution went to the Speaker's table. (30th, p. 1412.)

§ 1597. *Resolutions affecting the perquisites of the members not exempt from hauf hour rule.*

A resolution providing that each member of the House be allowed $10, or so much thereof as each member may use, for telegrams and long-distance telephones, was pending.

Mr. Bell raised the point of order on the further consideration of the resolution at this time on the ground that the

time provided in the rules for the consideration of resolutions had expired.

Sustained. (31st, p. 73.)

§ 1598. *Resolution to rescind former action comes within the half hour rule.*

The House having passed a resolution permitting the members of the faculty of the State University to accept pensions or donations from Andrew Carnegie, Mr. Strickland, on a subsequent day, offered a resolution providing that the House rescind its action giving the faculty of the State University the permission to accept pensions from Andrew Carnegie.

Mr. Mobley raised the point of order on further consideration of the resolution at this time for the reason that it was not privileged and could only be considered during the morning call.

Sustained. (31st, p. 889.)

RESOLUTIONS NOT IN ORDER.

§ 1599. *A resolution containing an undue reflection on the House not in order.*

To a sarcastic resolution criticising in a measure the House for not adjourning on Washington's birthday, Mr. Dean raised a point of order on the ground that it was an undue reflection upon this House and should not be considered.

Sustained. (30th, p. 622.)

§ 1600. *Resolution to appoint a committee to secure information as to the benefits to be derived by the people by reason of the defeat of certain legislation held not in order.*

Mr. Bryan, by unanimous consent, offered a resolution in the House May 8, 1907: Whereas, in that the House and Senate having refused to take up for consideration the two cent fare bill, and alleging that the defeat of the bill had been urged upon the ground that what the people most desired and needed was a reduction in freight rates for the benefit of the farmers and other toiling citizens, and assumed that these assurances were made in good faith; that the farmers and other citizens of the State were anxiously awaiting information as to the extent of the reduction to be made in view of the failure of the bill, and declaring that the people were entitled to know and the members of the Legislature were entitled to have the people know how much the Legislature

saved the people in freight rates by defeating the bill. Said resolution proposed the appointment of a committee by the Speaker to interview the representatives of the various railroads and ascertain from them the amount of reduction to be made in freight rates in view of the defeat of the bill, and to know when said reduced rates would be put into effect, and such other information of like import.

The Chair declared the resolution out of order. (30th, called, p. 261.)

RESOLUTIONS—PRIVILEGED.

§ 1601. *A resolution fixing the date of sine die adjournment privileged.*

During the consideration of a resolution fixing the date of a sine die adjournment, the time expired for which a special order was postponed (set aside) and the Chair was about to lay the special order before the House, when Mr. Robertson raised the point of order that the resolution to adjourn sine die is a question of the highest privilege and should take precedence over even a special order and that the same should now be the question before the House.

Sustained. (29th, p. 689.)

§ 1602. *A resolution setting apart days on which the House shall accept the invitation of the Cattle Raisers' Association to be the guests of Fort Worth, was held to be a privileged resolution.*

Resolution being considered, Mr. Mobley raised a point of order on consideration of same at this time on the ground that it is not a privileged motion.

Overruled. (31st, p. 1043.)

§ 1603. *Held that the resolution providing for the temporary adjournment of the Legislature is privileged.*

The House was considering a concurrent resolution by Mr. Kirby providing for the adjournment of the Legislature from February 25 until Monday, April 7, 1913, and Mr. Lewelling made the point of order that it was not a privileged matter.

Overruled. (33rd, p. 681.)

§ 1604. *A resolution relating to a special message of the Governor and providing for the return of the message to the Governor with the compliments of the House was held to be a privileged resolution.*

Mr. Schluter raised a point of order on further consideration of the resolution at this time on the ground that it is not privileged.

Overruled.

REVENUE BILLS.

§ 1605. *Speaker refuses to accept from the Senate a revenue or taxing bill.*

A Senate bill having for its purpose the taxing of pool halls was laid before the House and read first time.

Mr. Terrell of Bexar made the point of order that it is a measure for the purpose of raising revenue and cannot be received by the House from the Senate, and that the Chair should have it returned to the Senate with the suggestion that all bills for raising revenue must, under the Constitution, originate in the House of Representatives, and the House is therefore compelled to return it to the Senate.

The Speaker sustained the point of order and the Chief Clerk was instructed to return the bill to the Senate. (32nd, p. 864.)

§ 1606. *Held that the bill creating a fund to pay the State Highway Engineer by charging a license fee for the registration of motor vehicles is not a revenue measure of such a character as to prevent its originating in the Senate.*

The House was considering Senate bill No. 8, creating a State Highway Department and establishing a State Highway Engineer and prescribing the duties of each and fixing the compensation of the engineer, creating a fund by the license of motor vehicles, etc., when Mr. Broughton made a point of order on further consideration of the bill on the ground that it was a bill raising revenue and, under the provisions of the Constitution, should originate in the House of Representatives.

Overruled. (33rd, p. 1664.)

REGULAR ORDER—SUSPENSION OF.

§ 1607. *The fact that the House has refused to suspend the regular order does not prevent the making of other motions to suspend the regular order of business.*

A motion was made to suspend the regular order of business. Mr. Schluter raised a point of order on consideration of the motion to suspend, stating that, as the House had just twice

refused to suspend the regular order, it was an indication that the House desired to take up the bills on the Speaker's table in the manner prescribed by the rules, and that further motions, at this time, to suspend were in their nature dilatory and should not be entertained.

Overruled. (28th, p. 678.)

RIGHTS OF MEMBERS.

§ 1608. *A resolution reflecting upon a member of the House held not in order.*

A substitute to a pending resolution had been offered which reflected upon a member of the House. Mr. Crisp raised a point of order on consideration of the substitute on the ground that it carries an unnecessary reflection upon a member of the House and is an infringement upon the dignity and privileges of the House.

The Speaker held the point of order well taken. (30th, p. 377.)

RULES—AMENDING THE.

(See Rule 28.)

§ 1609. *Held that a proposition to vote on amendments to the appropriation bill until disposed of, without discussion, not amendment to the rules.*

Mr. McDowell offered this resolution:

Resolved, That the House of Representatives, at 11 o'clock a. m., Monday, May 1, 1899, proceed to vote on the pending University amendments to Substitute House bill No. 111, and continue to vote on any and all amendments and substitutes until they are disposed of without discussion on same.

Mr. Bailey raised the point of order that the resolution was in the nature of a proposition to amend the rules, and must lie over one day.

Overruled. (26th, p. 1142.)

(Note.—This ruling is clearly erroneous.—Editor.

§ 1610. *Held that a resolution to take up a bill and consider it from day to day until disposed of is not an amendment to the rules.*

Mr. Childs offered this resolution:

Resolved, That we take up the anti-trust bill now and continue its consideration from day to day until it is finally disposed of.

Mr. Lane made the point of order that by a resolution adopted by this House, Wednesday and Thursday evenings of each week were set aside for the consideration of Senate bills, and the remaining time for the consideration of House bills. Section 54 of the rules of the House provides that no standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion thereof.

Overruled. (26th, p. 1289.)

§ 1611. *Resolution relating to the filing of resolutions held an amendment to the rules.*

Mr. Lane proposed a resolution providing that "all bills and joint resolutions shall first be filed with the Reading Clerk, who shall number, file and read the same in the order in which they are handed in."

Read second time, and Mr. Seabury raised the point of order that the resolution seeks to amend the rules of the House, and cannot be entertained, under the rules, without one day's notice being given thereof.

The point of order was sustained and the resolution went over. (27th, p. 14.)

§ 1612. *Is an addition to the rules an amendment?*

Mr. Neff proposed a resolution providing for the erection of a railing at the rear of the Hall and defining the duties of the officers in relation thereto.

Mr. Henderson of Lamar raised the point of order that the resolution was in the nature of an amendment to the rules, and therefore should go over one day; and further stated that the rules of the House, if enforced, fully covered the matter embraced in the resolution.

The Speaker overruled the point of order and stated that the resolution was designed to be simply in furtherance of the rules and not amendatory. (27th, p. 250.)

(Note.—This decision was clearly wrong.—Editor.)

§ 1613. *A resolution covering a subject already embraced in the rules or orders of the House is not in order.*

Mr. Gray moved that the lobby be removed to the galleries and the desks so arranged as to reserve for the members the exclusive use of the Hall.

Mr. Napier raised the point of order that the resolution is unnecessary, since the rules, if enforced, cover the same subject.

Sustained by the Speaker, who stated that any member had the right to call for strict enforcement of the rules. (27th, p. 625.)

§ 1614. *Resolution setting apart Friday of each week to consider revenue-raising bills an amendment to the rules.*

Mr. Beaty offered a resolution setting apart Friday of each week for the consideration of revenue-providing bills.

Mr. Seabury raised the point of order that the resolution seeks to amend the rules, and that as the proper notice had not been given, it should go over one day.

The Chair sustained the point of order, and the resolution went to the Speaker's table. (27th, p. 730.)

§ 1615. *Invitation to a person to address House not an amendment to the rules.*

Pending resolution to invite Governor Hogg to address the House, Mr. Grisham raised a point of order on further consideration of the resolution, stating that it is in the nature of an amendment to the rules and, therefore, should be referred to the Committee on Rules.

Overruled. (28th, p. 643.)

§ 1616. *Proposition to set apart Tuesday and Wednesday to consider House bills on third reading held not to be an amendment to the rules.*

Mr. Byrne moved to set apart Tuesday and Wednesday mornings of this week for the consideration of House bills on third reading.

Mr. Kennedy raised a point of order on consideration of the resolution on the ground that it proposed to amend the rules and should go to the Committee on Rules.

Overruled. (29th, p. 946.)

(Note.—This is in conflict with the present rules of the House. See Section 6, Rule 28.—Editor.)

§ 1617. *Proposition to determine by drawing the names of members from a hat who should secure recognition to call up bills, an amendment to the rules, and referred; notwithstanding the resolution provided that it should not be referred.*

Mr. Cobbs offered the following resolution:

Resolved, That suspension day be set apart, first, to Senate bills on third reading and House bills on third reading, then to such measures of suspension which would otherwise come up on suspension day; provided, on suspension day for taking

up general bills the Speaker shall not recognize any member whose name has not been drawn in the following manner: The Clerk shall place the name of each member in a hat, shake them up, and from time to time, without looking in the hat, and, in the presence of the Speaker and entire House, draw the name of some member, whom the Speaker shall recognize, and such member may call up any bill or yield his right so to do to some other member; that this resolution shall not be referred to any committee, but be spread on the Journal and taken up for action on next Friday, or such time as it may then or thereafter be called up for action.

Mr. Kennedy raised a point of order on consideration of the resolution on the ground that it is in fact a proposition to amend the rules and should go to the Committee on Rules.

The Chair sustained the point of order and the resolution was referred to the Committee on Rules. (29th, p. 978.)

§ 1618. *Resolution that House bill No. 302 be promptly taken up and considered during this Regular Session held not an amendment to the rules, but merely expresses an intention which, if adopted, would bind the House to nothing.*

Mr. Cranke offered the following resolution:

Whereas, Unless the ad valorem tax is increased, the finances of this State will be in a deplorable condition, and it is important that immediate and prompt action be taken; therefore be it

Resolved, That House bill No. 302 be promptly taken up and considered in this Regular Session.

Mr. Kennedy raised a point of order on consideration of the resolution on the ground that it is amendatory of the rules and should go to the Committee on Rules.

The Speaker overruled the point of order, saying: "This resolution involves no change or even suspension of the rules. It merely expresses a desire or intention, which the House is asked to approve, and, if adopted, would bind the House to nothing." (29th, p. 1218.)

§ 1619. *Amendment to the rules must be referred to the Committee on Rules.*

A resolution declaring that it would not be in order for the Speaker to entertain a motion to extend the time of a member on the floor was pending.

Mr. Hamilton raised the point of order that the resolution,

being a proposition to amend the rules, it should be referred without debate to the Committee on Rules.

The Chair sustained the point of order. (30th, p. 1286.)

RULES—COMMITTEE.

§ 1620. *It is within the province of the Committee on Rules to propose a resolution to the House for its consideration.*

Pending before the House was the report of the Committee on Rules, which proposed a resolution providing for the erection of a railing in the rear of the House, separating the lobby from the desks of members.

Question—Shall the resolution be adopted?

Mr. Duff raised a point of order on the consideration of the resolution and stated "that the matter covered by the resolution was not within the apparent jurisdiction of the committee, and that the resolution had not otherwise been moved in the House, nor referred to the committee; that the committee had no authority voluntarily to propose a resolution not pertaining to either the rules of the House, the joint rules, or the rules of order."

Overruled. (28th, p. 87.)

§ 1621. *Held that a motion to suspend a rule of the House does not of necessity go to the Committee on Rules without debate.*

A motion pending to suspend a rule of the House, Mr. Dotson raised a point of order on further consideration of the resolution at this time on the ground that the rules of the House require that resolutions proposing to amend the rules be referred to committee without debate.

Overruled. (32nd, p. 1273.)

RULES—ENFORCING.

§ 1622. Mr. Fuller offered a resolution requesting the Speaker to strictly enforce the rules against lobbying.

Mr. Gilmore raised a point of order on further consideration of the resolution on the ground that it should properly be referred to the Committee on Rules.

Overruled. (31st, p. 517.)

RULE—SUSPENSION OF CONSTITUTIONAL.

§ 1623. *Does not require four-fifths of all the members elected to the House to suspend the constitutional rule requiring bills to be read on three several days.*

On the suspension of the constitutional rule requiring bills to be read on three several days, the vote was 99 to 1.

Mr. Mears raised a point of order on the announcement of the Chair, stating that Section 9 of Rule XIX requires that it shall take a four-fifths majority of all members elected to the House to suspend the constitutional rule and place a bill on another reading, and that 107 is a four-fifths majority of this House; therefore the motion has failed.

The Speaker overruled the point of order.

Mr. Brown of Wharton appealed from the ruling of the Chair.

The House sustained the ruling of the chair.

The following authorities were submitted to support the ruling of the Speaker:

Cooley on Constitutional Limitations, 7 Ed., p. 201.
State vs. McBride, 4 Mo., 303.
Fellson vs. Meehan, 21 La. Ann., p. 79.
Zila vs. Central Railway, 84 Mo., 304; 34 L. R. A., 469; Amer. Enc. of Law, Vol. 15, p. 772.
Day vs. State. 63 Texas, 544.
William Green vs. Miller, 32 Miss., 650.
Southworth vs. Railway, 2 Mich., 287.
State vs. McBride, 29 Amer. Dec., 636-6.

These authorities sustain the contention that a four-fifths vote means of those present, a quorum being present, and not four-fifths of the total membership of the House. (30th, p. 1388.)

§ 1624. *The rules having been suspended to take up a bill, it must be disposed of before another bill can be taken up.*

The House had suspended the rules to take up for consideration House bill No. 5, and, while the House was considering the bill, Mr. Moore moved to suspend the rules and take up House bill No. 96.

Mr. Briggs raised a point of order on consideration of the motion to suspend on the ground that it is not in order to entertain a motion to suspend the pending business until the matter before the House, which is House bill No. 5, on its

second reading, and which was taken up under a motion to suspend the regular order of business, is disposed of.

Sustained. (30th, called, p. 273.)

RULES—SUSPENSION OF.

§ 1625. Section 1 of Rule 22 provides that "no standing rule or order of the House shall be suspended except by an affirmative vote of two-thirds of the members present." It also prohibits the consideration of any other business on Senate and local bill days except by unanimous consent. The rule in the national House of Representatives is that no rule can be suspended except by a two-thirds vote, and that the Speaker shall not entertain a motion to suspend the rules except on the first and third Mondays of each month, and the last six days of the session.

In the House during the regular session of the Thirty-third Legislature, on several occasions, the rules were suspended, and the same practice has prevailed to a certain extent in the previous Legislatures. It is doubtful, however, if such procedure is authorized by the rules; certainly only by inference and implication, if we consider Section 1 alone. Even then we are confronted with that provision of the rules which makes the practice in the national House of Representatives the rule where the rules of the House are inexplicit, indefinite or silent. As we have seen, the Speaker in the national House of Representatives shall not, except on certain days, entertain a motion to suspend the rules. Those certain days are the "suspension days." So that, taking the two together, the Speaker of the House is prohibited from entertaining a motion to suspend the rules except on suspension days—that is, on Mondays and the last six days of the session; then the motion would have to be seconded by a majority of those present. But we are not restricted to Section 1 of the House rules, and the practice in Congress for an interpretation of the rules under consideration. Section 3 of the same rule expressly prohibits the Speaker from entertaining a motion to suspend the order of business established by the rules for the purpose of taking up and considering any resolution or measure out of its regular order except on Mondays and the last six days of the session.

§ 1626. Rule 21 and Section 2 of Rule 22 in plain terms states what the order of business established by the rules is,

and the taking up out of its regular order of any measure or proposition whatever, except on Mondays and the last six days of the session, would be in violation of the rules of the House; and a motion to suspend the rules of the House on any day except suspension days is not in order and cannot be considered if objected to.

SENATE BILL DAY.

§ 1627. *Only Senate bills can be considered on those dates.*

Mr. Lane raised the point of order that it is not proper to take up and consider a House bill today, since the two houses had passed a concurrent resolution setting apart certain days for consideration of bills coming from the other house until such bills are disposed of.

Mr. Shropshire also raised the point of order—

1. That the rules provide that local bills be considered on Saturdays.

2. That a concurrent resolution adopted by both houses has set apart Wednesdays and Thursdays for the consideration of bills coming from the opposite house, and that it would not be proper, without consent of the Senate, to consider House bills on these days as long as there are Senate bills in the House not disposed of.

The Speaker held that the first point of order was not well taken, but sustained the second and that raised by Mr. Lane. (26th, p. 836.)

§ 1628. *Senate bills have right of way on Senate bill day.*

A House bill was being considered on Senate bill day.

Mr. Crockett of Mitchell raised a point of order on further consideration of the bill at this time, for the reason that today being set apart under the rules of the House for the consideration of Senate bills, it is not in order to consider this bill at this time.

Sustained. (31st, p. 706.)

SPEAKER—MAY VOTE WHEN.

§ 1629. Under Section 6, Rule 1, the Speaker is not required to vote except where his vote would be decisive or where the House is voting by ballot, and in case of a tie vote the question shall be lost.

§ 1630. *Challenge of Speaker's right to vote overruled.*

The Speaker announced that the vote stood 57 yeas and 56 nays, that the Chair would vote nay, and declared the resolution lost.

Mr. Brownlee made the point of order that the vote was not a tie, and the Speaker cast his vote against the resolution after the result had been announced."

The Speaker overruled the point of order. 32nd, p. 279.)

(Note.—In the national House of Representatives the Speaker has voted when a correction of the roll call revealed a tie after intervening business and on another day.—Editor.)

SPECIAL ORDERS.

§ 1631. *A special order having been made and undisposed of precludes the making of another special order until that one is disposed of.*

Mr. Kennedy of Limestone raised the point of order that the motion was out of order for the reason that there is a special order now pending in the House, same being House bill No. 173, and that no other special order can be made until same is disposed of.

Sustained. (27th, p. 358.)

§ 1632. *Must be considered from day to day and cannot be postponed.*

A bill having been taken up as a special order, Mr. Heslep moved to postpone further consideration until Monday.

Mr. Satterwhite raised the point of order that the bill had been taken up this morning as a special order and must be considered from day to day until disposed of.

Sustained. (27th, p. 403.)

§ 1633. *Special orders have the right of way.*

The Speaker laid before the House, as unfinished business from yesterday, same being a special order, Substitute House bill No. 183.

Mr. Cobbs raised a point of order on consideration of the bill today, stating that, this being Senate bill day, under the rules, the bill should go over until tomorrow, unless taken up under suspension of the regular order, under the rule making the last six days of the session suspension days.

Overruled. (28th, p. 1010.)

The House having refused to suspend the regular order of

business to take up House bill No. 218, Mr. Rosser Thomas moved to make it a special order for next Wednesday.

Mr. Dean raised a point of order on consideration of the motion, on the ground that the bill is not on the Speaker's table.

Overruled. (29th, p. 1056.)

Mr. Canales raised a point of order on further consideration of the bill at this time and stated that the hour set apart for taking up the special order had arrived, and that the House should proceed at once with its consideration.

Sustained. (30th, called, p. 62.)

§ 1634. *Held that House bills pending on special orders cannot be considered on Senate bill day unless all Senate bills have been disposed of.*

On April 30th, on motion of Mr. Canales, the House, by a vote of 71 to 27, ordered that House bill No. 67 be made a special order to be taken up and placed on its second reading and passage to engrossment tomorrow, Wednesday, May 1, at 9:30 a. m. When that hour arrived, Senate bill No. 4 was pending before the House.

Mr. Terrell of McLennan raised a point of order on consideration of the bill at this time on the ground that House bill No. 67 had been set as a special order for this hour, and that the Speaker should lay said bill before the House.

The Chair held that, this being Senate bill day, Senate bills take precedence over other matters until disposed of. (30th, called, p. 150.)

§ 1635. *Cannot postpone special order.*

The House had under consideration House Joint Resolution No. 13 as a special order, whereupon Mr. Nichols of Hill moved to postpone further consideration until 2 o'clock p. m. Wednesday, March 21, which motion was held out of order. Mr. Nichols appealed from the ruling of the Chair, and the Chair was sustained by a vote of 94 yeas to 13 nays. (32nd, p. ——.)

§ 1636. *Platform recommendation can be made special order.*

Held that the rule providing that platform demands shall have precedence according to their number does not preclude the setting as a special order of a platform demand or recommendation. (33rd, p. 902.)

SUBSTITUTES.

§ 1637. *The fact that a section of a bill has been previously amended does not prohibit the offering and consideration of other amendments to the same section.*

Mr. McKenzie raised a point of order on consideration of the amendment by Mr. James on the ground that it is not germane for the reason that the department of the bill that the amendment seeks to amend has been substituted by an amendment by Mr. Murray of Wilson, just adopted, and that the pending amendment cannot be made to apply to certain lines by numbers, etc.

The Speaker overruled the point of order and stated that the amendment, should it be adopted, could be properly identified in engrossment of the bill. (29th, called, p. 107.)

SUBSTITUTES—GERMANE.

§ 1638. A House concurrent resolution fixing the date of final adjournment to a day certain was pending.

Mr. Clements offered the following substitute:

Resolved, That it is impractical to set a day for final adjournment before the general appropriation bill is signed by the Governor.

Mr. Henderson of Lamar raised the point that the substitute was not germane and that, therefore, it was not in order.

Overruled. Mr. Henderson of Lamar appealed, and the House sustained the ruling of the Speaker. (26th, p. 95.)

§ 1639. Mr. Duff offered the following resolution:

Resolved, That the true intent and meaning of Section 1, Rule XXVIII, of the House of Representatives authorizes the issuance by the members of tickets of admission to the House to any named person or persons, good for such length of time during the present session as shall be designated thereupon, by the member issuing the same, and the said rule shall be effective according to this construction.

The resolution was read second time, and Mr. Connally offered the following amendment :

"Amend by adding 'all invitations revokable at the will of the House.'"

The amendment was accepted.

Mr. Reese offered the following substitute for the resolution:

Resolved, That every member of this House be accorded the right to state on invitation cards the time for which any

named party is invited to the floor of this House, and that the party so named shall be admitted by the Doorkeeper for the full time mentioned on said cards; provided, such invitations shall not exceed one week in time."

Mr. Duff raised a point of order on consideration of the substitute, stating that it was not germane to the question before the House in that it sought to amend the rule, when the resolution before the House sought to interpret Section 1 of Rule XXVIII.

Overruled. (28th, p. 211.)

SUBSTITUTES—NOT GERMANE.

§ 1640. Mr. Decker offered as a substitute for the McFall resolution the following:

Resolved by the House of Representatives, That we here now declare our confidence in the honor and integrity of Hon. Joseph W. Bailey and Attorney General Smith in their private life and in the discharge of their official duties."

Mr. McFall raised the point of order that the substitute offered by Mr. Decker is not germane to the original resolution and, therefore, is out of order.

Sustained. (27th, p. 52.)

§1641. Mr. Satterwhite offered the following substitute for the resolution inviting Governor Hogg to use the Hall for an address (page 274):

Whereas, ex-Governor Hogg has been invited to address the Joint Committee on Constitutional Amendments Tuesday evening; therefore be it

Resolved, That when the House adjourns forenoon tomorrow, it stand adjourned until Wednesday morning, 9:30.

Mr. Aldrich raised the point of order that the substitute was not germane to the pending resolution and, therefore, out of order.

Sustained. (27th, p. 304.)

§ 1642. A joint resolution was pending, proposing certain amendments to the Constitution.

Mr. Garner offered a substitute providing for a convention to frame a Constitution for the State of Texas.

Mr. Shannon raised the point of order that the substitute by Mr. Garner was not germane to House Joint Resolution No. 1 and, therefore, out of order.

The Speaker sustained the point of order.

Mr. Garner appealed from the ruling of the Chair. The House sustained the Chair by a vote of 79 to 23. (27th, p. 459.)

§ 1643. Pending a resolution to erect a railing in the rear of the Hall separating the lobby from the desks of the members, Mr. Isaacks offered the following substitute resolution:

Resolved, That no one shall be allowed the floor of the House during sessions except members of the House and Senate and the officers and clerks and employes of both bodies, Governor of the State and Lieutenant Governor and the heads of the several departments, ex-members of the House and Senate who have no personal interest in matters pending in either branch of the Legislature, and such members of the press as are actively engaged in the discharge of their duties and to whom the Speaker has issued credentials. The south half of the gallery shall be known as members' gallery, and shall be reserved for the accommodation of those visitors to whom members of the House give cards of admission. This rule shall not be suspended except by unanimous consent.

Mr. Mulkey raised the point of order that the substitute, being in the nature of an amendment to the rules of the House, it must necessarily go over one day before it can be considered, and, furthermore, that it is not germane to the resolution under consideration.

Sustained. (28th, p. 87.)

SUBJECTS OF LEGISLATION (CALLED SESSIONS).

§ 1644. *When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor; and no such session shall be of longer duration than thirty days.* (Sec. 40, Art. 3, Constitution.)

§ 1645. The proclamation of the Governor and the journals of the two houses are not competent evidence to show that an act passed at a special session of the Legislature is invalid because its subject matter was not embraced in the proclamation. County of Presidio vs. National Bank, 20 C. A., 511; 44 S. W., 1069.

§ 1646. The courts will not go into an investigation to

determine whether as a matter of fact the Legislature, at a called session, enacted legislation not embraced in the messages of the Governor. State vs. Larkin, 41 C. A., 264; 90 S. W., 912.

§ 1647. Proclamation of the Governor "to reduce the taxes, both ad valorem and occupation, so far as it may be found consistent with the support of an efficient State government," embraced the whole subject of taxation, and authorized an act levying an occupation tax upon persons engaged in the sale of the Police Gazette, etc. Baldwin vs. State, 21 Cr. App., 593; 3 S. W., 109.

§ 1648. It was not the intention of this section to require the Governor to define with precision as to detail the subjects of legislation, but only in a general way, by his call, to confine the business to the particular subjects. Brown vs. State, 32 Cr. App., 133; 22 S. W., 601; Long vs. State, 58 Cr. App., 209; 127 S. W., 208.

§ 1649. It is not necessary nor proper for the Governor to suggest in detail the legislation desired. It is for the Legislature to determine what the legislation shall be. Brown vs. State, 32 Cr. App., 133; 22 S. W., 601.

§ 1650. Proclamation authorizing the reapportionment of the judicial districts of the entire State, by implication, authorizes the reapportionment of any number of such districts. Brown vs. State, 32 Cr. App., 133; 22 S. W., 601.

§1651. This section of the Constitution does not require the proclamation of the Governor to define the character or scope of legislation, but only in a general way to present the subjects for legislation. Long vs. State, 58 Cr. App., 209; 127 S. W., 208.

§ 1652. The call of the Governor to enact laws * * * amending and changing the existing laws governing court procedure, etc., authorized the act changing the terms of the criminal district courts of Galveston and Harris counties. Long vs. State, 58 Cr. App., 209; 127 S. W., 208; Brown vs. State, 32 Cr. App., 119.

§ 1653. In the absence of a constitutional provision limiting the same, the jurisdiction of the Legislature, when confined in the special session, is as broad as at a regular session and this section of the Constitution constitutes an exception

to the general rule, and is a limitation of the general power of the Legislature. And where such limitation is thus imposed upon the general power of the Legislature, it should be strictly construed, and should not be given effect as against such general power, unless the act in question is clearly inhibited by such limitation. Long vs. State, 58 Cr. App., 209; 127 S. W., 208; Brown vs. State, 32 Cr. App., 119.

§ 1654. This section requires that the subjects for legislation be presented to the Legislature by the Governor in writing. Casino vs. State, 34 S. W., 769.

§ 1655. The courts will take judicial knowledge of the proclamations, messages and public communications of the Governor to the Legislature. Casino vs. State, 34 S. W., 769.

§ 1656. This section is mandatory and requires that legislation at a called session be confined to subjects presented to the Legislature by the Governor. Casino vs. State, 34 S. W., 769.

§ 1657. The approval by the Governor of an act not within the scope of his call does not give such act vitality. Casino vs. State, 34 S. W., 769.

§ 1658. Proclamation of the Governor "to enact adequate laws simplifying the procedure in both civil and criminal trials in the courts of this State," etc., embraces and authorizes Act of May 14, 1907, relating to contests of local option elections. Such proceedings is a "civil trial." Stockard vs. Reid, 121 S. W., 1144.

§ 1659. Under this section, the Legislature cannot, at a special session, investigate matters not included in the Governor's call, or investigate a matter upon which it could not legislate under the call. See ex parte Wolters, 144 S. W., 531.

§ 1660. This section does not preclude the appointment, at a special session of the Legislature, of an investigating committee to obtain information for future use, even on a subject not submitted by the Governor. Ex parte Wolters, 144 S. W., 531.

§ 1661. Message of Governor at special session asking for increase of appropriation for the offering of rewards and enforcement of the law was not broad enough to include the subject of irregularities and violations of law at a recent election

so as to authorize the Legislature to investigate such subject, though the Governor in his message mentioned his offer of rewards for the arrest and conviction of offenders at such elections. See ex parte Wolters, 144 S. W., 531.

§ 1662. House Concurrent Resolution No. 1, requesting the President of the United States to open negotiations with the treaty-making power of the republic of Mexico with the view of attaining a reciprocity treaty with that republic looking to the encouragement and exportation of grain, grain products, blooded cattle, hogs and hog products and poultry and poultry products to said republic.

Mr. Witcher raised a point of order on consideration of the resolution on the ground that the subject matter contained in the resolution had not been submitted by the Governor to this special session, and that, therefore, it was not proper to consider the same.

Overruled. (29th, called, p. 87.)

§ 1663. A House bill was pending, taxing property passing by will or descent or by grant or gift taking effect upon the death of the grantor or donor. This was during a called session of the Legislature.

Mr. Canales raised a point of order on further consideration of the bill on the ground that it does not come within the subject matter embraced in the proclamation of the Governor convening the special session, nor within the message of the Governor transmitted to the special session, and stated that, therefore, the House had no authority whatever to consider the subject matter contained in House bill No. 12.

The Chair (Mr. Hamilton) overruled the point of order.

Mr. Canales appealed, and the House sustained the Chair. (30th, called, p. 57.)

§ 1664. Bill taxing inheritance pending. It had been introduced before the message referred to in the point of order was sent to the House.

Mr. Brown of Wharton raised a point of order on further consideration of the bill, stating that, in view of the fact that the Governor has seen fit to send another message to the House specifically embracing an "inheritance tax," he (the Governor) does not construe his former message as embracing same, and that this bill should be referred to a committee, reported back to the House and take its place on the calendar as a new bill.

Overruled. (30th, called, p. 69.)

§ 1665. Speaker held out of order bill not within the call of the Governor. (32, called, p. 592.)

§ 1666. The consideration of a Senate concurrent resolution extending an invitation to the International Typographical Union to hold its next session in Houston, Texas, was held not to be legislation on a subject not submitted by the Governor at a special session of the Legislature. (32nd, 1st called, p. 142.)

§ 1667. *Question discussed by the Court of Criminal Appeals.*

Ramsey, J. Appellant was convicted of burglary and his punishment assessed at two years' confinement in the penitentiary.

The principal question in this case involves the validity of acts of the Thirty-first Legislature, Chap. 13, changing, extending and rearranging the terms of the criminal district court of Harris and Galveston counties.

1. It is contended by appellant, and was urged in a strong oral argument, that the act is invalid, in that same was in contravention of Section 40, Article 3, of the State Constitution, in that it was not embraced within the subjects designated by the proclamation of the Governor calling the Legislature in special session.

Section 40 of Article 3 is as follows:

"When the Legislature shall be convened in a special session there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, presented to them by the Governor, and no such session shall be of longer duration than thirty days."

It was held in the Casino vs. State, 34 S. W., 769, that it may be shown that legislation passed at a special session of the Legislature was in violation of this section. Some doubt of the correctness of this view was expressed by Judge Wilson in the case of Baldwin vs. State, 21 Texas App., 591, 3 S. W., 109, where he says:

"It is a question well worthy of serious consideration whether a court in this State can go behind a statute which is valid upon its face and inquire into the particular authority by virtue of which it was enacted."

Usener vs. State, 8 Texas App., 177; Central R. Co. vs. Hearne, 32 Texas, 546; Blessing vs. Galveston, 42 Texas, 641.

The case of Casino vs. State, supra, is also authority for the proposition that this section is mandatory and that where

an act has been passed at a special session on a subject not embraced in the Governor's proclamation, his approval cannot make it valid, and that an act passed at such special session not reasonably within the purview of such call is, and by the courts will be declared to be, unconstitutional. By inference, if not directly, this view is sustained by the case of Brown vs. State, 32 Texas Cr., 119, 22 S. W., 596.

In passing on the appeal we shall treat the question as one subject to judicial inquiry. We think the propositions laid down in the valuable brief filed in behalf of the State may be accepted as unquestionably sound:

First. In the absence of a constitutional provision limiting the same, the jurisdiction of the Legislature when convened in special session is as broad as at a regular session, and that Section 40 of Article 3 of the Constitution constitutes an exception to the general rule, and is a limitation of the general power of the Legislature. And where such limitation is thus imposed upon the general power of the Legislature, it should be strictly construed, and should not be given effect as against such general power, unless the act in question is clearly inhibited by such limitation.

Baldwin vs. State, 21 Texas App., 591; 3 S. W., 109.

State vs. Shores, 31 W. Va., 491; 7 S. E., 413; 13 Am. St. Rep., 875.

People vs. Blanding, 63 Cal., 333; Cooley's Const. Lim., 204. Says this author: "Nor are the courts at liberty to declare an act void because, in their opinion, it is opposed to a spirit supposed to pervade the Constitution, but not expressed in words. 'When the fundamental law has not limited, either in terms or by necessary implication, the general powers conferred upon the Legislature, we cannot declare a limitation under the notion of having discovered something in the spirit of the Constitution which is not even mentioned in the instrument.' "

People vs Fisher, 24 Wend. (N. Y.), 215.

State vs. Staten, 6 Cold. (Tenn.), 238.

Walker vs. Cincinnati, 21 Ohio St., 14.

State vs. Smith, 44 Ohio St., 348; 7 N. E., 447; 12 N. E., 829.

People vs. Rucker, 5 Colo., 455.

Wooten vs. State (Fla.), 5 South., 39; 1 L. R. A., 819.

Second. Every presumption should be indulged in favor of the constitutionality of a legislative enactment, and the judicial department of the government will be justified in pro-

nouncing it unconstitutional only when it is shown to be a manifest violation of a constitutional restriction.

Solon vs. State, 54 Texas Cr. R., 261; 114 S. W., 349.

Sweet vs. Syracuse, 129 N. Y., 316; 27 N. E., 1081; 29 N. E., 289.

Mfg. Co. vs. Falls, 90 Tenn., 466; 16 S. W., 1045.

Kellogg vs. Page, 44 Vt., 359; 8 Am. Rep., 383.

Newsom vs. Cocke, 44 Miss., 352; 7 Am. Rep., 686.

Mindful of these salutary and safe rules of construction, it follows, third, that the Constitution does not require the proclamation of the Governor to define the character or scope of legislation which may be enacted at a special session, but only in a general way to present the subjects for legislation, and thus confine the business to a particular field, which may be covered in such a way as the Legislature may determine.

Baldwin vs. State, 21 Texas App., 591; 3 S. W., 109.

Brown vs. State, 32 Texas Cr. R., 119; 22 S. W., 596.

Deveraux vs. City of Brownsville (C. C.), 29 Fed., 742.

The proclamation of the Governor convening the Legislature in special session contained, among other things, the following:

"To enact adequate laws simplifying the procedure in both civil and criminal courts of this State, and to enact laws amending and changing the existing laws governing court procedure as will reduce the present unusual and unnecessary expense of litigation and as will tend to the speedy administration of justice in civil and criminal cases."

While it is undoubtedly true that the construction which the Legislature and the executive place on the language of such a call is not conclusive upon the courts, it is entitled to great weight. Such call is in a sense the chart of the Legislature, and contains the limitations under which and in respect to which only they can act. When, therefore, acting under such a call, they undertake to consider subjects and pass laws in response thereto, and such laws receive the approval of the executive, courts are and should of right be reluctant to hold that such action is not embraced in such call, and will not so declare unless the subject manifestly and clearly is not embraced therein. The term "court procedure," in the connection in which it was used by the Governor in his proclamation, was doubtless intended to apply, and should be held to have the effect to apply, generally to all laws governing the operation of courts, and we think necessarily included the terms and times during which such courts should hold their sessions. If the Legislature, by enacting a law amending and

changing existing laws, increased and extended the length of terms of the criminal district court of Harris county, which would have the effect and which would tend to the speedy administration of justice in criminal cases, it would seem that such an act would be within the jurisdiction of the Legislature, and would be legislation upon the general subject presented for their consideration by the Governor in his proclamation. It was stated in the case of Brown vs. State, supra:

"That the Legislature may only enact legislation in part in relation to the subject mentioned in the call does not render such legislation invalid, nor is it necessary to the validity of such legislation that the whole subject matter should be acted on by the Legislature. The call includes the entire subject of reapportioning the judicial district, and authorized any and all such legislation upon that subject as was deemed necessary by the Legislature. It was not necessary, nor would it have been proper, for the Governor, in his proclamation, to have suggested in detail the legislation desired. It was for the Legislature to determine what the legislation should be."

The case of Baldwin vs. State, supra, is, we think, directly in point, and beyond question supports the validity of the act here under consideration. In that case Baldwin was indicted for following the occupation of selling the Illustrated Police News and Police Gazette without first paying a tax upon such occupation. The act taxing this occupation was passed in 1882 at a special session of the Legislature (see Laws Seventeenth Legislature, Special Session, p. 18), and the constitutionality thereof was attacked on the ground that the legislation was enacted without constitutional warrant, and was inhibited by Section 40, Article 3, of our Constitution. The proclamation of the Governor convening the Seventeenth Legislature, among other things, said:

"To reduce the taxes, both ad valorem and occupation, so far as it may be found consistent with the support of an efficient State government."

There was nothing in the proclamation which authorized the levying of additional taxes upon occupations not then taxed. In that case, in a well-reasoned opinion by Judge Wilson, the act there assailed was held constitutional. In passing on the question, Judge Wilson says:

"One of the purposes of convening the Legislature in special session is stated in said proclamation to be 'to reduce the taxes, both ad valorem and occupation, so far as it may be found consistent with the support of an efficient State govern-

ment.' This, it seems to us, embraces the whole subject of taxation, and authorizes any and all legislation upon that subject as may be deemed necessary by the Legislature. To so legislate as to reduce the taxes, and at the same time provide for the support of an efficient State government, in our opinion, includes the power to levy taxes upon property and occupations not before taxed. It might be wholly impracticable to accomplish a reduction of taxes and at the same time maintain the State government, without the exercise of such power. All the Governor could properly do was done. He called the attention of the Legislature to the subject upon which, in his opinion, legislation was desired. That subject was taxation. It was not necessary, nor would it have been proper, for him in his proclamation to have suggested in detail the legislation desired. It was for the Legislature to determine what the legislation should be. Legislative power, except where the Constitution has imposed limits upon it, is practically absolute. And where limitations upon it are imposed, they are to be strictly construed, and are not to be given effect as against the general power of the Legislature, unless such limitations clearly inhibit the act in question. Cooley's Const. Lim., 204. It was said in Railroad Co. vs. Riblet, 66 Pa., 164 (5 Am. Rep., 360): 'If the act itself is within the scope of the legislative authority, it must stand, and we are bound to make it stand, if it will, upon any indictment. * * * Nothing but a clear violation of the Constitution, a clear usurpation of power prohibited, will justify the judicial department in pronouncing an act of the legislative department unconstitutional and void.' See, also, Cooley's Const. Lim., 223."

The term "court procedure," as stated, is a very general term and has reference to all rules or laws governing the operation of courts, and includes those laws regulating the times within which sessions of courts may be held for the transaction of business. If there could be any question as to the meaning of the term "court procedure" standing alone and unexplained by the connection in which it is used, there would seem to be no question as to its meaning in the connection in which it was used in the message under consideration. In this connection, it should be noted that the case of Baldwin vs. State, supra, was approved in Brown vs. State, also noted above, as well as in the case of Preston vs. Finley (C. C.), 72 Fed., 854, as well as by the Supreme Court of Colorado in re Governor's Proclamation, 19 Colo., 337; 35 Pac., 531.

So that we are constrained to hold that the act in question is valid, and not subject to the assault made upon it herein.

QUESTIONS—ASKING.

§ 1668. *It is competent for a member to ask another a question for information, although the member interrogated has resumed his seat.*

Mr. Love of Williamson obtained the floor and propounded a question to Mr. Duncan, who had yielded the floor.

Mr. Cobbs then raised the point of order that it was not competent for a member who was on the floor to question another who had yielded the floor and taken his seat.

The Speaker overruled the point of order and stated that it was competent for a member on the floor to seek information from a member who had resumed his seat by properly addressing the Chair and the member questioned chose to reply. (30th, p. 132.)

QUESTION OF PRIVILEGE.

§ 1669. *A member cannot abuse the Speaker under a plea of personal privilege.*

Mr. Onion obtained the floor and stated that he desired to speak to a question of personal privilege.

While he was proceeding with his statement, Mr. Duff rose to a point of order and stated that the gentleman from Bexar (Mr. Onion), under the guise of personal privilege, was simply criticising the Speaker of the House, and should not be allowed to proceed.

The Chair (Mr. Schluter) overruled the point of order, and in so doing stated that he had not listened attentively to the trend of the gentleman's remarks, and was not therefore prepared to pass upon the propriety or impropriety of same.

Mr. Onion then proceeded with his statement and, continuing further, Mr. Standifer raised a point of order and stated that the gentleman from Bexar (Mr. Onion) instead of speaking to a question of personal privilege, was denouncing the Speaker of the House for the failure of a certain bill in the House, and that the gentleman from Bexar should not be allowed to proceed unless he confined himself to a question of privilege.

The Chair sustained the point of order, and the incident closed. (28th, p. 1206.)

§ 1670. *The House has the right to arraign the author of a newspaper article reflecting unjustly on the membership.*

Mr. Terrell of Travis offered the following resolution as a substitute for the motion of Mr. O'Quinn:

Resolved, That the staff correspondent of the Beaumont Journal, who is now present, and who avows himself the author of an article which reflects unjustly on the membership of this body, be arraigned by the Sergeant-at-Arms, and required at the bar of the House to purge himself of the contempt manifest in such article.

Mr. Mays raised a point of order on consideration of the motion and the pending substitute, stating that the House is entirely without jurisdiction in the matter, and that both should be out of order.

Overruled. (28th, called, p. 39.)

§ 1671. *Is a member entitled to the floor under plea of personal privilege when he himself uses unparliamentary language?*

While Mr. O'Quinn was speaking to the question of privilege, Mr. Duff rose to a point of order, stating that the gentleman from Angelina is transcending the legitimate bounds of privilege, that he is using language himself quite unparliamentary, and asks that he be required to confine his remarks strictly to a question of personal privilege. (28th, called, p. 39.)

QUORUM—RULES XI AND XV.

§ 1672. *When a point of no quorum is made, the Clerk, under the direction of the Speaker, should call the roll or count the members.*

Mr. Mercer raised the point that there was not a quorum present, and the Speaker directed the Clerk to count the members present.

The Clerk announced that he had counted seventy-three members in the Hall, whereupon the House then adjourned until 9:30 o'clock a. m. next Monday. (26th, p. 971.)

Mr. Powell raised the point of no quorum, and the Clerk was directed to count the members present.

It was announced that there were eighty-seven members present in the Hall, and the Chair announced the amendment adopted. (26th, p. 1032.)

§ 1673. *A quorum of the House is two-thirds of the total members elected.*

A call of the House pending for the purpose of securing a quorum, Mr. Garner inquired of the Chair how many members were present. He was informed that eighty-five members were present.

Mr. Garner then raised the point of order that there was a quorum present, one of the members having died and the House now consisting of but one hundred and twenty-seven members.

The Chair (Mr. Neff) overruled the point of order.

Mr. Seabury then raised the point of order that eighty-five members constitute a quorum of the House as constituted, and cited authorities on the subject.

The Chair overruled the point of order and held that, under the Constitution, eighty-six members constitute a quorum to do business. (27th, p. 810.)

§ 1674. *Can only adjourn from day to day with less than a quorum.*

During a call of the House to secure a quorum, a motion was made to adjourn from Friday until Monday.

Mr. Glenn raised a point of order on the motion to adjourn until next Monday on the ground that to adjourn until next Monday would be violative of Section 10 of Article III of the State Constitution, which reads:

Section 10. Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members.

The Speaker did not sustain the point of order, but the House refused to adjourn except until the next day. (29th, called, p. 12.)

Mr. McKinney moved that the House adjourn until 2 o'clock p. m. next Monday, and, there being no quorum present, Mr. Hamilton raised a point of order on the motion to adjourn until next Monday, stating that there being no quorum of the House present, the House could only adjourn from day to day, quoting Section 10 of Article III of the State Constitution.

Sustained. (30th, p. 320.)

§ 1675. *When there is less than a quorum present, it is in order for the House to take the necessary steps to compel the attendance of the absent members.*

There being no quorum present, Mr. Baker mover that the Clerk furnish the Sergeant-at-Arms with the Sergeant-at-Arms with the names of members absent without leave, and

that the Sergeant-at-Arms be directed to bring enough of the members to make a quorum.

Mr. McKenzie raised a point of order on the motion, stating that it was not competent to transact business without a quorem present.

Overruled. (30th, p. 1176.)

§ 1676. *"No quorum" point of order fully discussed.*

Mr. Lane here rose to a point of order and stated that in his opinion there was not a quorum present, and asked that the roll be called to ascertain the presence of a quorum.

The Chair overruled the point of order, stating that there was nothing in the record showing that there was not a quorum present, whereupon Mr. Lane filed the following memoranda:

"Mr. Speaker: I make the point of order that the appointment of a Free Conference Committee on House bill No. 7, known as the intangible assets bill, is illegal and void and of no force and effect, and all acts of the House of Representatives of the Thirtieth Legislature, First Called Session, thereafter the motion above referred to, are illegal and void and of no force and effect, and in support of this contention I desire to file the following statement of facts:

"The gentleman from McLennan (Mr. Kennedy) made a motion that the House refuse to concur in the Senate amendments to House bill No. 7, and asked the House to grant a Free Conference Committee. The gentleman from Montague (Mr. Cable) moved as a substitute that the House do concur in the Senate amendments, and in support of his substitute addressed the House. On the motion of the gentleman from Montague, the yeas and nays were demanded by three or more of the members, one of which was myself. The roll of the membership of the House was called and it developed no quorum. A list if those not voting was twice called in order to develop a quorum, and at the end of each call there was still no quorum. And the fact that there was no quorum was well known to the Speaker and every member of the House who was present and answered to his name. In order that the Speaker might not be forced to make the official announcement of no quorum present, the various members present, including the gentleman from Bell (Mr. Robertson), the gentleman from McLennan (Mr. Stratton) and the gentleman from Potter (Mr. Bowman) importuned the gentleman from Montague (Mr. Cable) to withdraw his demand for the yeas

and nays, for the reason that the roll call had developed no quorum. Whereupon the gentleman from Montague (Mr. Cable) did withdraw his demand for the yeas and nays over the protest of myself, who was one of the members who joined in the demand for the yeas and nays. In answer to an inquiry from myself, the Speaker held that the gentleman from Montague had the right to withdraw his demand for the yeas and nays over the protest of myself, who had previously joined him in the demand for the yeas and nays. I immediately made the point of order that there was no quorum present, and the Speaker overruled the point of order, saying that the roll call had not been announced and the point of order was not well taken. I again made the point of order that there was no quorum present, and asked that my point of order be made a part of the record, and again the Speaker overruled my point of order and informed me that the point of order would be placed on record, and at the suggestion of the gentleman from Hunt (Mr. Hamilton) informed me that his overruling my point of order would also be placed on record. For the third time I made the point of order that there was no quorum present, and that the House was transacting business without a quorum, and inquired of the Speaker if there was no means by which I could verify my assertion that there was no quorum present. For the third time the Speaker overruled my point of order and informed me that he knew of no way to ascertain the presence of a quorum except by a roll call. I then demanded a roll call to ascertain the presence of a quorum, and was ignored by the Speaker.

"I take the position that whatever the records may be made to show, there was in fact no quorum present, and that this fact was known to both the Speaker and the members present, and that the House was acting in violation of both its own rules and the Constitution of the State of Texas, and as a result its acts are of no force and effect and null and void." (30th, called, p. 345.)

§1677. *When a point of no quorum is made, the Chair should order a roll call or take such other means as deemed best in his judgment to ascertain whether or not a quorum is present.*

Mr. Caves raised a point of order on further consideration of the bill on the ground that there was no quorum present.

The Clerk was directed to call the roll and a quorum was announced present. (31st, p. 908.)

Mr. Cox raised a point of order that there was not a quorum present.

The Clerk was directed to call the roll, and a quorum was found not to be present. (31st, p. 957.)

VOTING—RULE II.

§ 1678. *The rules of the House expressly provide that no member shall be permitted to vote in any case when he was not within the bar of the House when the question was put, and if his vote be challenged on that ground, the Speaker shall ask him whether he was within the bar of the House when the question was put, and if he answers in the affirmative he shall be permitted to vote. To be within the bar of the House, a member must be on the floor of the House and within the walls enclosing same. A member absent in a committee room or in the reception room or in the Sergeant-at-Arms' room when the question is put is not entitled to vote; but this rule has been flagrantly violated and is seldom adhered to. Likewise is that provision which prohibits a member making an explanation of his vote.*

The Speaker is not required to vote except where his vote would be decisive. But a member called temporarily to the chair may vote.

When the Clerk announced that the vote was a tie, and Mr. Smith of Grayson, in the chair, not having voted, directed the Clerk to record him as voting "nay," Mr. Bailey raised the point of order that a member of the House called to the chair temporarily by the Speaker did not have the right, under the rules, to cast the deciding vote when the Speaker-elect is present on the floor.

The Chair held the point of order not well taken. (26th, p. 1441.)

(Note.—This ruling is in harmony with congressional precedents.—Editor.)

VOTING—VERIFICATION OF.

§ 1679. *There is no rule or provision providing for a recapitulation or a verification of a yea and nay vote.*

A member may not, as a matter of right, demand a recapitulation or a verification of a yea and nay vote, but if the vote

be close the practice in Congress and in the House has been for the Speaker to order it.

When the verification of a yea and nay vote has been demanded, no member has a right to have his vote recapitulated unless he actually voted; and no member can change his vote.

Under no sort of a circumstance should a member be permitted to change his vote after the result has been announced. To do this would establish a dangerous precedent that might lead not only to confusion, but which would open the door to fraud.

Pending the verification of a vote, several members came into the hall who were absent when the roll was called, and Mr. Terrell of Cherokee rose to a point of order, stating the fact, naming the members, and requested that they be allowed to vote after having the question stated to them by the Chair.

The Chair overruled the point of order, stating that the result having been announced and a verification demanded, no change could be made except to correct an error where a member had been wrongly recorded when his name was called. (30th, called, p. 271.)